CHILDREN, THE JUSTICE SYSTEM, VIOLENT EXTREMISM AND TERRORISM

ANNEX
NATIONAL REPORTS
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**Introduction**

These national reports examine the current situation of children suspected or convicted of terrorism in Austria, Belgium, Croatia, France, Germany, Hungary, Latvia and the Netherlands.

They describe what happens to children when they come to the attention of the criminal justice authorities as a result of alleged involvement with terrorist activity, under the existing law and policy frameworks of each country.

Therefore, these reports as an ensemble highlight the variations in implementation and differing provision in terms of procedural safeguards for these children.

In addition, the reports offer promising practices that are used to strengthen criminal justice systems for children in a counter-terrorism context.

This publication is an annex to the Regional overview report ‘Children, the Justice System, Violent Extremism and Terrorism: An Overview of Law, Policy and Practice in Six European Countries’. It has been coordinated and published by the International Juvenile Justice Observatory. It is part of the European project ‘Strengthening Juvenile Justice Systems in the counterterrorism context: Capacitybuilding and peer learning among stakeholders’, cofunded by the European Union’s Justice Programme (2014-2020). The contents of it are the sole responsibility of the authors, and can in no way be taken to reflect the views of the European Commission.
AUSTRIA

Ludwig Boltzmann Institute of Human Rights

Sabine Mandl
Nora Katona

Translation: Mathias Weidinger, Hoang Anh Nguyen
Proofreading: Nikole Metz
## List of abbreviations

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<th>Description</th>
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<tr>
<td>BFA</td>
<td>Federal Office for Migration and Asylum (“Bundesamt für Fremdenwesen und Asyl”)</td>
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<td>BIM</td>
<td>Ludwig Boltzmann Institute for Human Rights</td>
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<tr>
<td>BVT</td>
<td>Austrian Federal Office for the Protection of the Constitution and Counter-Terrorism (“Bundesamt für Verfassungsschutz und Terrorismusbekämpfung”)</td>
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<tr>
<td>CS</td>
<td>Custodial Sentence</td>
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<tr>
<td>DERAD</td>
<td>Conversational Sessions for risk assessment and ideological disassociation</td>
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<tr>
<td>DyRiAS</td>
<td>Dynamic Risk Analysis</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>FPG</td>
<td>Aliens Police Act (“Fremdenpolizeigesetz”)</td>
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<tr>
<td>ICPA</td>
<td>International Correction and Prisons Association</td>
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<tr>
<td>IPBm</td>
<td>Institute for Psychology and Threat Management Darmstadt</td>
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<tr>
<td>PStSG</td>
<td>Police State Protection Act</td>
</tr>
<tr>
<td>RAN</td>
<td>Radicalization Awareness Network</td>
</tr>
<tr>
<td>SoNeKo</td>
<td>Social Network Conferences</td>
</tr>
<tr>
<td>SPG</td>
<td>Security Police Act (“Sicherheitspolizeigesetz”)</td>
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<tr>
<td>StGB</td>
<td>Austrian Criminal Code (“Strafgesetzbuch”)</td>
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<tr>
<td>StPO</td>
<td>Austrian Criminal Procedure Code (“Strafprozessordnung”)</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>VerbotsG</td>
<td>National Socialist Prohibition Law (“Verbotsgesetz”)</td>
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<td>VfGH</td>
<td>Constitutional Court (“Verfassungsgerichtshof”)</td>
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<td>VPN</td>
<td>Violence Prevention Network</td>
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<td>YCA</td>
<td>Youth Court Act (“Jugendgerichtsgesetz”)</td>
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Introduction

The project

The Ludwig Boltzmann Institute for Human Rights (BIM) is the Austrian partner in the EU-project: "Strengthening Juvenile Justice Systems in the counter-terrorism context: capacity-building and peer learning among stakeholders."\(^1\) Resulting from the Austrian legal system, the research report covers children (between 14 and 18 years) but also young adults (between 18 and 21 years).\(^2\)

In this research report, the BIM\(^3\) analyses the situation of children and young adults in the context of the juvenile justice system as well as the conditions of detention in light of different movements of violence-prone extremism, such as right and left wing as well as religiously motivated extremism.\(^4\) An overview of the national legislation on terrorism and violence-prone extremism in Austrian criminal law will be provided. In this context, specific regulations for children and young adults will be thematised. Furthermore, political measures for de-radicalization and prevention will be introduced, especially those used in the penitentiary system and the time after imprisonment.

Methodology

The following report's methodological approach includes quantitative and qualitative elements, which consist of an analysis of secondary sources, ten court and criminal records of children and young adults convicted of offences under §§ 278b et seq. of the Criminal Code (Strafgesetzbuch, StGB\(^5\)) and five interviews with experts in the juvenile justice system. The secondary sources include legal commentaries, scientific studies, as well as reports and statements of public institutions and civil societies. Special reference

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\(^2\) See Part B, 3.2.

\(^3\) The authors would like to thank Mathias Weidinger for his support in the drafting and particularly in the translation process. Our sincere thanks also to Nikole Metz and Hoang Anh Nguyen for their support in this project.

\(^4\) In this context the term “religiously motivated” has been chosen in view of the national discourse on Islamist extremism. Islamist extremism, like Salafism (on the different forms of Salafism see Part A, 1.2.3.) and Jihadism is an example of extremist tendencies prone to violence which pursues mainly political rather than religious goals. In this context, religion, however, is often instrumentalised for political purposes and forms therefore an integral part of their ideologies. In this respect, “Islamist extremism” differs from right- and left-wing extremism. Certainly, other forms of religiously motivated extremism exist, e.g. the Christian fundamentalism and radical Evangelicalism.

is made to three current studies, as this is the first time that Austria has scholarly examined the phenomena of “radicalization” in different contexts, such as the penal system, public youth work in Vienna and in light of religious socialisation. The results provide a valuable basis, which also serves as a reference point for this report. The analysis from the court and criminal files and the issue-orientated expert interviews were carried out based on an outlined thematic analysis according to Lueger in which the main problems and categories are outlined and interpreted.

In the framework of this project, we aim to describe the policies, strategies and measures in the field of counter-extremism and counter-terrorism. However, we cannot evaluate their practical implication in depth; first, a profound evaluation was not within the scope of the project. Second, there is often a lack of clear indicators suggesting how to measure if a project is successful in preventing or countering extremism or terrorism. Therefore, the initiatives and projects are mostly merely described. If there is any reference to their effectiveness, it is based on information we gathered from other sources or the conducted interviews.

Recent Developments in Austria

Against the backdrop of the 9/11 terror attacks and the attacks over the past years in Europe public discourse conducted within Austrian politics and the media was particularly determined by violence-prone political Islamist extremism. Certain groups of children and young adults seen as “vulnerable to radicalisation” received particular attention in the political agenda, as shown in a 2016 study on youths in the open youth work. Especially in 2014/2015 youths who travelled to Syria or Iraq to join the Islamic State (IS) or other Islamist groups, some of whom have since returned to Austria, were the focus of public attention.

Up until now there have been a number of different responses, such as amending criminal law, implementing measures in the penal system and developing initiatives and processes aimed at the de-radicalisation and prevention. Austria is pursuing an approach that includes the society and communities as a whole. All relevant actors in public offices such as the federal ministries (Justice, Education, Interior, Europe/Integration/Foreign Ministry), security services, provincial governments and civil organisations are to be held accountable in confronting radical and extremist movements on different levels. It is important to note that radicalisation of children and young people should never be seen as a preliminary step from terrorism, but as dealing with complex cases which run their individual courses.

This research report - as already explained - focuses on Islamist-influenced extremism. In this regard, attempts were made to develop different typologies of children and young adults who were convicted of terrorist activities. Additionally, the report aims at grasping the development of extremist tendencies, such as right and left-wing extremism in the context of the juvenile justice system; criminal offences, current developments, reports and convictions will be shown. Considering the great political and media attention, which has followed Islamist

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extremism, it is often overlooked that the number of convicted children and young adults for right-winged extremism has been at a constant high for years. Since 2014/2015 in view of the increased movement of refugees and migrants one can see a rise of hostility against foreigners and asylum seekers.

It is important that all interventions and measures against extremism and terrorism are established around with the full protection of human rights in mind. In other words, all preventive measures and criminal investigations have to be proportionate and respect the fundamental rights of the individual. This also applies to those who are already sentenced or detained, as they should be given perspectives for the future in order to move away from their terrorist and/or extremists past and into an inclusive society with opportunity for participation.

The BIM considers this study to be an assessment of the status quo as well as a reflection on current developments and challenges. Together with the national reports from the partner organisations, this report serves as a basis for a comparative analysis including recommendations for relevant actors and stakeholders. The overall objective is to improve the situation of children and young adults in the light of international and European children’s and human rights standards.

**Update 2018**

In 2017 a new federal government was elected in Austria. It presented its working programme, which refers explicitly to extremism and radicalisation in two sections. As the programme is still vague, the raised points will be only outlined without going into depth.

1. Combating extremism and radicalisation, in particular, to prevent terrorist activities

The document states that the most significant threat to the public security derives from Islamist extremism. To counter risks, amongst others, a security package is foreseen in order to close the gaps in monitoring internet-based telecommunications. Additionally, security police cooperation and data exchange, as well as data processing, should be intensified. Further, area and travel restrictions and restrictions in the use of electronic means of communication for individuals assumed to endanger public safety by a terrorist offence (“Gefährder”) are intended to be installed. According to the working programme of the government, an amendment to the law on associations should be adopted to combat extremism and terrorism giving the legal possibilities to close down places of worship that can be linked to extremism. Moreover, new criminal regulations are planned to be put into place against political Islamism and committing a crime with religiously-motivated extremist intentions should be an aggravating circumstance. Also, the interdisciplinary preventive and deradicalisation measures should be expanded.

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2. Reform of the penitentiary system

The programme plans to place individuals suspected of endangering public safety by a terrorist offence ("Gefährder") in separate security departments.\(^\text{10}\) There are no further specifications so far neither whom this regulation exactly targets by "Gefährder" nor where and how these departments will operate. Furthermore, necessary security checks for all external staff working in prisons (Imams, psychotherapists etc.) are supposed to be implemented.\(^\text{11}\)

While the programme refers to measures aiming to prevent and combat religiously motivated extremism, it remains mostly silent when it comes to other forms of extremism and radicalization. Before drawing conclusions, it remains to be seen how and to what extent the government will put these intended plans to practice.

\(^\text{10}\) Reads in German as follows: „Unterbringung von islamistischen Gefährdern in eigenen Sicherheitsabteilungen“.

\(^\text{11}\) Reads in German as follows: “Verpflichtende Sicherheitsüberprüfung gem. § 55 SPG für alle im Strafvollzug dauerhaft tätigen Externen (islamische Seelsorger, Psychotherapeuten etc.)“.
Part A: Counter-terrorism approach and policies

1. Approaching the terminology

Before defining different terminologies and concepts, it is worth mentioning, that in the Austrian context, there is no term for “counter-terrorism”. All policy developments and initiatives in the last years aiming at countering terrorism refer either to “deradicalisation” and/or “disengagement” or to “prevention”. Additionally, the term “disengagement” differs from “deradicalisation”. The latter initiates a process towards abandoning radical and/or extremists beliefs and mindsets whereas the former focuses on a non-violent behavioural change. Even though the term “disengagement” is rarely used in Austria, both approaches are applied simultaneously within most programmes.

Currently, there are no conventional definitions of what constitutes a phenomena like terrorism, extremism, Salafism, Jihadism, etc. on a national level. Therefore, the following marks the intention to depict and demarcate these notions as clearly as possible in the Austrian context. Their interpretation and ascription in the scientific and political discourse are reflected in the legislative and political decision-making processes and are, hence, the basis for the development of preventive measures and deradicalisation programs. Therefore, it seems reasonable to refer to definitions from the national authorities, civil society organizations, and scientific experts who work in the Austrian context.

1.1. Terrorism

Following the terror attacks on September 11, 2001 in the United States, the ministers of justice of the EU Member States agreed on a common definition of terrorist acts as part of a framework decision. On the basis thereof, the Austrian legislator amended the criminal law to include new offences relating to terrorist activities in 2002. For more information see Part B.

According to the framework decision, terrorist offences are committed with the aim of:

- seriously intimidating a population, or
- unduly compelling a Government or international organisation to perform or abstain from performing any act, or

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• seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation

Under Austrian law, actions aiming at the establishment (or restoration) of democracy and the rule of law, as well as those resulting in the exercise and protection of human rights are explicitly excluded from this definition. In this way, it is clarified that political resistance against a contemptuous regime, as e.g. during the times of National Socialism, cannot be persecuted or penalised as a terrorist offense.

It can be inherently difficult to separate terrorism from other forms of political resistance. Terrorism generally entails violent action against the political order, with the aim to draw attention to certain political, moral, or religious causes. In pursuit of this, intimidation, coercion, and fear are utilised. Terror, thus, constitutes a tool for the creation of instability and chaos within a state or an organization.

1.2. Extremism

The term extremism stems from the Latin term extremus (the outermost). It denotes the furthest deviation from a principle or a standpoint. What the respective significant other is, depends on the historical, political, and social context. Whether something is deemed extremist depends, conversely, on what is perceived as moderate by society. Peter Neumann employs the driving ban for women in Saudi Arabia as an example: In western countries such rules and norms are met with disbelief while in another context individuals who question it are considered extremists.

Politically, the term extremism denotes political positions and convictions, which question or reject the very bedrock of political and societal coexistence. The term, thus, encompasses different ideologies, like right-wing extremism, left-wing extremism and religiously motivated extremism. Although different in nature, these modes of extremism exhibit some considerable similarities:

• claim to absoluteness
• a dichotomous view of the world
• friend and foe scheme

14 See § 278c Abs 3 StGB.
17 Neumann, Peter: Der Terror ist unter uns (Terrorism is among us). Bundeszentrale politische Bildung (ed.), Bonn 2017, p. 29.
• conspiracy theories
• fanaticism

According to the definition by the Austrian Federal Office for the Protection of the Constitution and Counter-Terrorism (Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, BVT), extremist aspirations are directed against the basic democratic order. Frequently, violence is often advocated, encouraged or even practiced as a means to achieve its goals - if so, they constitute violent extremism. It is not radical convictions but the use of violence that is relevant to criminal law.

1.2.1. Right-wing extremism

The working definition of right-wing extremism used by the Austrian Office for the Protection of the Constitution and Counter-Terrorism understands the notion as a collective concept involving political beliefs and endeavors. Those range from xenophobic/racist to those affiliated with National Socialism – which oppose the norms and rules of the modern constitutional state in favour of a social order characterised by inequality. Their opposition manifests itself in support for and use of violence. The term ‘right-wing extremism’ results from diverse societal contexts and the interpretations attached to them. Espousal of dictatorial rule, anti-Islamic, anti-Semitic, and xenophobic sentiments, chauvinism, social-Darwinism, racism, and belittlement and relativisation of National Socialism (i.e. revisionism) characterise the world view of right-wing extremist ideologies. These ideologies are prevalent in right-wing extremist groups, their networks, and milieus. The glorification of racial-nationalism accompanied by German-national and nationalistic-conservative concepts are also typical of right-wing radical behavioral and attitudinal patterns.

Peham refers to Holzer’s conceptualisation of right-wing extremism, adding further features.

• The claim of a “natural inequality”, which is argued biologically and the rejection of social emancipation efforts, e.g. feminism
• Continuous protest and rebellion against the current order and democratic institutions
• Societal dichotomisation (in and out group dynamics, resulting in relations of alleged inferiority and superiority)

20 The Austrian Federal Office for the Protection of the Constitution and Counter Terrorism (Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, BVT), part of the Ministry of the Interior, is a security authority, which protects Austria’s constitutional institutions and their ability to act. Their core-responsibilities are, among others, fighting phenomena of terrorism and extremism, espionage, international arms trade, trade in radioactive substances, and the organized crime in these sectors. Furthermore, the BVT oversees the initiation, coordination, and – at provincial level – implementation of public security measures, object- and person protection generally, and the protection of foreign representatives, International Organizations, and other legal entities under International law, see: http://www.bmi.gv.at/205/ (20 September 2017)
21 Report of the Federal Office for the Protection of the Constitution and Counter-terrorism (BVT), 2016, Vienna 2017, p. 11. In the following the German word “Verfassungsschutzbericht” will be used.
22 Ibidem, p. 11.
• A rigid concept of heteronormative gender hegemony and, consequentially, stark rejection of any deviations from this norm (homophobia, etc.)
• Self-victimisation and a penchant for personalising, wary, and conspiratorial ways of explaining the world, according to which the individual sees itself as the victim of outside forces (victim-perpetrator-inversion)

Right-wing extremism is an international phenomenon. However, due to Austria’s active role in the crimes of 20th century German National Socialism, the issue is especially sensitive here. Despite the fact that Nazi activities have been banned under the National Socialist Prohibition Law24 (Verbotsgesetz, VerbotsG) since 1945, Austria is still a potent breeding ground for National Socialist activities according to the Austrian Federal Office for the Protection of the Constitution and Counter-Terrorism.25

1.2.2. Left-wing extremism

Scientific literature on left-wing extremism in Austria, as well as in Germany, is scarcer than literature on right-wing extremism.26 Unfortunately, there is no consistent definition of the term either. The left-wing extremist scene in Austria includes multiple factions. They can generally be divided into a Marxist, Leninist, and Trotskyist compound and an autonomist, anarchist movement. Regarding their content-related orientation they, nevertheless, share some objectives, above all, the purpose of putting an end to the current bourgeois capitalist system. In this process, the intention is to replace democratic rule, either with new norms limiting individual freedoms, or - following the anarchic principle – with a government by none. The latter would eliminate authority relationships and rules all together.

• Marxist/Leninist groups strive for social change through revolution, the realisation of which requires the recruitment of a significant part of the population. Operations are organised in a cadre party, and members adhere to orders from its governing body unconditionally.
• Trotskyist groups pursue what they call a ‘permanent revolution’ for the further development of socialism. Their goal is to infiltrate democratic institutions in order to gain influence over the policy process.
• The autonomous anarchic scene is organised in loose platforms only. Their names and composition may vary depending on their specific protest target. In some instances, the exponents, most of whom are juveniles, seem to lack discernible political objectives all together.27

Marxist/Leninist/Trotskyist organisations usually refrain from openly using violence. However, they do not oppose the use of violence per se. Autonomous anarchic groups view violent action as a legitimate and normal tool.28

25 Verfassungsschutzbericht, 2016, p. 11.
27 Verfassungsschutzbericht 2016, p. 17 et seq.
28 Ibidem, pp. 17 et seq.
1.2.3. **Religiously motivated extremism: Salafism, Jihadism**

Like elsewhere, religiously motivated extremism has been a growing phenomenon in Austria during the last few years. This term refers to movements which adhere to a very specific and exclusive way of conceiving and interpreting religious contents. These belief systems do not tolerate the coexistence of any other. Islamist extremism is a form of religious extremism. Islamist extremist movements invoke Islam for justification of their actions and strive for the installation of a social and state order, exclusively legitimised through and accountable to religious norms.\(^{29}\) Unfortunately, the terms of Islamism and Salafism are often used interchangeably with Islam in the current discourse.

Salafism can be divided roughly into three forms, only one of which happens to be violent and militant. First, the apolitical ‘quietist-purist’ Salafism distances itself explicitly from any kind of violence. Religious and political Salafism demands the union of state and religion, but by parliamentary means. Lastly, jihadists pursue their goals through violence.\(^{30}\) The ideology of jihadism is characterised by the disdain for others’ disregard of an allegedly pure form of Islam. Jihadists do not only fight non-Muslims, but also Muslims who do not share their specific conception of faith. They declare them infidels – ‘\textit{takfir}’ (رفاكلا, fellow Muslims declared infidels) or ‘\textit{kāfir}’ (رفاكلا; plural: ‘\textit{kuffār}’, رفاكلا – infidels in general). The term ‘Islamism’ also includes all non-Salafist groups which strive to install a new Islamist order or forcefully put Islam at the foundation of the existing social order.\(^{31}\)

2. **General status of extremist criminality concerning juveniles**

This chapter features a summarised account of extremist offences, current developments, criminal complaints and charges, as well as convictions in the areas of right-wing extremism, left-wing extremism, and Islamist extremism. The data presented here is mostly excerpted from the annual reports on the protection of the constitution (2014-2016), published by the Office for the Protection of the Constitution and Counter-Terrorism. Every yearly issue of these reports follows different logistical structures. Because of this incoherence, it is difficult to directly undertake a comparative analysis. Besides, some of the reports exhibit a significant lack of data, mainly of a differentiable presentation of data, especially regarding age and gender distribution. Therefore, we can only approximate the actual situation of youngsters, who are in conflict with the law.


relating to extremism. Nevertheless, the overview reflects the current developments and trends well and depicts the extent to which youngsters and young adults are involved in the phenomena surrounding extremism.

2.1. Right-wing extremism

Right-wing extremism continues to play a particularly significant role in Austria. It manifests itself through various manifestations, including right-wing revisionist groups, neo-Nazism, extremists organised in youth-comradeships, hooligans, skinheads, and, more recently, the 'new right' movement. This new group was introduced in France, it organises as a movement, and is highly active particularly on the internet. It managed to establish itself in Austria successfully as a platform of protest for young people. Meanwhile, it avoids incurring in punishable actions and openly xenophobic, racist, anti-Semitic, or Islamophobic rhetoric. By doing so it shifts the traditional lines of argumentation and social construction associated with the far-right. The term ‘race’ is replaced by ‘culture’. Rather than the long entrenched and straight forward requests like ‘Ausländer raus!’ (Foreigners out!), it has concepts like ‘Überfremdung’ or ‘Entwurzelung’ (cultural uprooting) that have gained momentum in recent years. As more traditional strands of right-wing extremism have repeatedly failed to generate interest among the younger generations, the “new right” tries to present its ideologies in a new guise that makes them socially acceptable. Their modern and, somewhat, pop culture-like image aims at the recruitment of mostly young individuals.

The refugee and migrant movement to Austria in 2014 and 2015, and the consequential increase in asylum applications, correlates with a sharp increase in crimes involving xenophobia, mostly targeting asylum seekers. Most of these criminal agitations against asylum centres, asylum seekers, and their supporters found its expression through denigration and anti-Islam propaganda on the internet. Despite a general decrease in the number of asylum applications in 2016 and 2017, this practice of menace and slander continues, both, on the web and occasionally during personal encounters in the streets.

Numbers

The official 2016 criminal statistics report a total of 537,792 reported cases of criminal offences. The number of total cases reported has remained relatively constant since

32 Compound noun: über=over, and fremd=alien or foreign – the term Überfremdung refers to the notion of “foreign infiltration” through (mass-)migration that is believed to threaten fundamental socio-cultural markers or ‘native’ identity.
2010. 1,313 of the 2016 cases reported are associated with offences of right-wing extremism – involving e.g. xenophobia, racism, islamophobia, or anti-Semitism. In the same year, the police reported against 963 persons, 129 of which (13.4%) were women. Children accounted for 89 (9.2%) of these files. The developments throughout the last three years are depicted in the following table:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>TOTAL NUMBER OF CRIMINAL OFFENCES</th>
<th>TOTAL NUMBER OF REPORTED FILES</th>
<th>THEREOF, FEMALE</th>
<th>THEREOF, CHILDREN</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>1.313</td>
<td>963</td>
<td>129</td>
<td>89</td>
</tr>
<tr>
<td>2015</td>
<td>1.156</td>
<td>912</td>
<td>90</td>
<td>92</td>
</tr>
<tr>
<td>2014</td>
<td>750</td>
<td>559</td>
<td>45</td>
<td>68</td>
</tr>
</tbody>
</table>

File statistics from the annual reports of the Office for the Protection of the Constitution and Counter-Terrorism 2014, 2015, 2016 http://www.bmi.gv.at/205/. In these reports the age of children is considered until 18 years.

1 Right-wing extremist, xenophobic, racist, islamophobic or anti-Semitic, as well as miscellaneous criminal acts involving the file of one or more pertinent offence. See: Verfassungsschutzbericht 2016, p. 12.
2 Reported by the police.

In comparison the total numbers of reported files in connection with the National Socialist Prohibition Law (VerbotsG) decreased slightly from 2015 (953) to 2016 (884).

To illustrate the range of offences, the following are but a few assorted examples:

- Desecration of memorial monuments to the victims of the Nazi regime.
- Incitement and islamophobia expressed through alteration (i.e. pasting over) of street signs in the proximity of a Mosque.
- Daubing the wall of a Turkish nursery school with a swastika.
- Staging of an event for the far-right scene, involving representatives of far-right political parties and other relevant groups from various countries.
- Incitement of violence against a Roma campsite via Facebook.

As the table above construes, the number of offences with right-wing extremist background has increased steadily throughout the last three years. Significantly, the increase in share of female offenders rose by 100% between 2014 and 2015. This trend continued, although it was less pronounced, between 2015 and 2016 (+43%). According to the 2015 report on constitutional protection, the role of women in these organisational

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36 Burglary and theft declined, while violent offences (+6.9%), economic criminality (+10.9%) and in particular cyber-criminality (+30%) increased since 2015, see: http://www.bmi.gv.at/cms/BK/publikationen/krim_statistik/Jahresstatistik_2016.aspx (20 September 2017).
37 A criminal action may involve more than one offence or separate complaint files, comp. Verfassungsschutzbericht 2016, pp. 12 et seq.
38 Verfassungsschutzbericht 2016, p. 12.
39 Verfassungsschutzbericht 2014, p. 16.
structures has changed. Previously confined to being hanger-on sympathisers, they have recently shown augmented proactive engagement. Importantly, increased female activism may open new recruitment potential.

The share of juvenile offenders rose 35% between 2014 and 2015, but dropped by 3% in 2016. Unfortunately, the number of female juvenile offenders against whom complaints were filed could not be inferred from the data available. The overall share of juveniles among all individuals accused of right-wing extremist crimes amounted to 9%. Apart from that, the number of the files regarding the VerbotsG decreased slightly from 953 in 2015 to 884 in 2016.

| Convictions of adults and children as well as young adults under the Verbotsgesetz |
|-----------------------------------|-------|-------|------|
|                                   | 2014  | 2015  | 2016 |
| Adults                            | 53    | 79    | 85   |
| Youth and Young adults            | 19    | 16    | 15   |


What is evident from the data, is a gradual decrease in the conviction of juvenile offenders and an increase of adults over the last three years. In the year 2016 the proportion of youth and young adults among convictions is 15% (15 out of 100 in total). As of August 31, 2017, no youth or young adult finds him-or herself in pre-trial detention or in prison as part of a sentence for right-wing extremist offences. Only rarely are custodial sentences handed down in this context. In Austria, alternative and more lenient measures are applied in most cases (see Part B. 3.).

### 2.2. Left-wing extremism

As illustrated in Chapter 1.2.2 broadly speaking, there are three discernible movements of left-wing extremist groups active in Austria. They are Marxist/Leninist-, Trotskyist-, and autonomist/anarchist movements.

In the period from 2014 to 2016, the autonomous-anarchist was the most active scene area within the far-left scene. Through (violent) protest, they allegedly fight fascism and repression, while criticising capitalism, economic and social policies. Lastly, they claim to promote their take on refugee- and asylum policies. Marxist/Leninist groups made no notable appearances during that time period. Programmatically, their interests somewhat coincide with the anarchists, e.g. regarding anti-fascism, capitalism- and social critique, or asylum policy. Nevertheless, the coordination between the two groups can hardly be called more than rudimentary.42

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The general central target of protests among all of these left-wing groups, and of the anarchist scene in particular, was the Vienna Academics’ Ball. The 2014 event saw violent escalations that resulted in twelve arrests and 206 filed complaints. In 2016, the ball passed by peacefully. Moreover, protests occurred in response to right-wing rallies, especially those of the ‘new’ right in Vienna and Graz. In the course of counterdemonstrations, violent left-wing extremists have frequently damaged property and inflicted bodily harm. In 2015, the increased presence of right-wing extremist, xenophobic, anti-Islam, and anti-immigration groups was met by an increasing frequency of (far) leftists’ counterdemonstrations. A special occurrence in the year 2016 was the Austrian presidential elections. Damages of election advertising materials (e.g. defilement of billboards) throughout the campaigning season occurred predominantly on the part of left-wing extremist groups. 178 offences – that is a stunning 46.5 % of the total far-left offences – were related to the election in one way or another.

Numbers

In 2016, 383 offences associated with left-wing extremism and involving alleged or proven violent components were reported to the authorities. Overall, in total there are 83 reported files, thereof 21 (25%) were women. Six individuals were children (7%). The following table depicts the developments over the last three years:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>TOTAL NUMBER OF CRIMINAL OFFENCES</th>
<th>TOTAL NUMBER OF REPORTED FILES</th>
<th>THEREOF, WOMEN</th>
<th>THEREOF, CHILDREN</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>383</td>
<td>83</td>
<td>21</td>
<td>6</td>
</tr>
<tr>
<td>2015</td>
<td>186</td>
<td>129</td>
<td>53</td>
<td>4</td>
</tr>
<tr>
<td>2014</td>
<td>371</td>
<td>179</td>
<td>56</td>
<td>2</td>
</tr>
</tbody>
</table>

File statistics from the annual reports of the Office for the Protection of the Constitution and Counter-Terrorism 2014, 2015, 2016 http://www.bmi.gv.at/205/ In these reports the age of children is considered until 18 years.

1 A criminal action may involve more than one offence or separate complaint files.
2 The majority of the reported files refer to damage of property (§125 StGB, § 126 StGB). In addition, there were files of grievous bodily harm (§84 StGB).

[43] The Vienna Academics’ Ball has been organized annually by the Freedom Party of Austria (FPÖ), provincial group Vienna, since 2013. It is considered the successor to the Vienna Corporation Ball (WKR Ball), which had been hosted by ‘colour-wearing’ and mostly fencing fraternities between 1952 and 2012 on an annual basis. Since 2008 it has faced frequent violent protests on part of far-left groups.


[46] Norbert Hofer (FPÖ) and Alexander van der Bellen (independent, supported by the green party) competed in the eventual runoff stage of the 2016 presidential election. The runoff, which took place in May, was annulled by the constitutional court. A rerun was scheduled for October, but had to be postponed to December due to irregularities regarding the production of (faulty) envelopes for the postal ballots. Eventually, Alexander van der Bellen won the election with 53.8% of the votes casted.

Moreover, the table shows that criminal activities of the left spectrum are not subject to any coherent trends. Rather, they ought to be understood as occasional adverse reactions to developments (e.g. Vienna Academics’ Ball, presidential elections), mostly directed against right-wing populist and extremist movements. Autonomist/anarchist groups, in particular, express their violent ‘anti-fascism’ through mass rallies.

Considering the above, it seems difficult to make qualified statements, differentiated by sex and age, about the developments of individual files throughout the last three years. Although, numerically, the number of female offenders has declined between 2014 and 2016, from 56 to 21, and the number of juvenile offenders has increased from 2 to 6, the data is too scarce to allow for further conclusions of any kind. That is partly due to the lack of information on the recruitment practices and specific roles for women, girls, and boys.

Unfortunately, in this study we could not evaluate the total number of convicted individuals in detention, who are affiliated with left-wing groups. The reason for this is that the criminal statistics do not list motives for offences like property damage, bodily harm infliction, or theft.

### 2.3. Salafism and Jihadism

**Development in Austria**

There are indications that the Salafist Islam in Austria emerged already in the 1990s because of migrant movements of Muslims as a result of two armed conflicts. These were the wars in former Yugoslavia – in particular the Bosnia Wars (1992-1995) – and the armed conflicts in Chechnya (1994, 1996, 1999, and 2009). According to estimates from the Ministry of the Interior, approximately 30,000 Chechens live in Austria today, most of them in Vienna.48

After 9/11, Austria saw the emergence of political Salafist groups with connection to the German scene, consisting of young men with predominantly Bosnian and Chechen backgrounds. This ‘new’ movement therefore developed long before the Syrian Civil War broke out in 2011. The Viennese man Mohammed M., of Austrian and Egyptian descent, had already radicalised during the mid-2000s. In 2008, at the age of 23 years, he was eventually convicted to four years of imprisonment for founding and promotion of a terrorist group. After his release, he moved to Germany, took part in the founding of the jihadi movement ‘Millatur Ibrahim’, and made sizeable contributions to the radicalization of the political Salafist scene. Two years thereafter, he decided to travel to the Middle East and pledge allegiance to the IS. He is said to have died in combat in 2015.49

Another important actor within the Austrian Salafist-extremist scene is Mirsad Omerovic, alias Ebu Tejma, who is considered a leading ideologist. The centre of his actions was at the Altun-Alem Mosque in Vienna’s 2nd municipal district. In his speeches, he openly

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49 Ibidem, p. 77 et seq; see Hofinger/ Schmidinger: Deradikalisierung im Gefängnis., 2017, p. 4.
opposes the ‘western’ democratic model and demands a social order that functions according to Islamic law. In 2016 Omerovic (34 years old) was sentenced to 20 years of prison for charges of participation in a terrorist group (§278b StGB), terrorist crimes (§278c StGB), as well as a general participation in organized crime (§278 StGB). This continues to be the longest custodial sentence passed for terrorist activities under Austrian jurisdiction.

Simultaneously, a second jihadi movement formed within the Chechen diaspora in Austria. The 2007 schism of the Chechen resistance movement was of substantial influence on Chechens who live in Austria. It ended in dichotomous claims to authority from, both, the nationalist wing under the exile government and its leader Ahmed Sakajew, and the newly formed Caucasus Emirate. The infamous Tawhid Mosque in Graz used to be a popular meeting place for younger Chechens. The local Imam misused his authority and actively recruited youths to fight in Jihad. He was sentenced to six years in prison. In 2012, as Chechen brigades formed and became involved in the Syrian Civil War, Chechens who had lived in Austria were in their ranks.

According to the report of the Office for the Protection of the Constitution and Counter-Terrorism (BVT), the geopolitical proximity to the violent extremism of the West Balkans has played a vital role in the emergence of jihadism in Austria. The travel routes of various individuals, who decided to go to Syria to fight, led through the West Balkans, where these individuals also happened to have personal connections.

**Foreign fighters**

Apart from Chechens, children and young adults with manifold foreign lines of descents (migrants, asylum seekers, and refugees) as well as converted Austrians have participated in the IS but also, sometimes, in some of its competitors like ‘Jbath Al-Nusra’ or ‘Ahrar Al-Sham’ and other armed groups. Between 200 and 300 of these so-called ‘foreign fighters’ left Austria for Syria and Iraq in 2015 and 2016.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Number of ‘Foreign Fighters’</th>
<th>Prohibited from Leaving</th>
<th>Returned</th>
<th>Killed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>296</td>
<td>51</td>
<td>90</td>
<td>45</td>
</tr>
<tr>
<td></td>
<td>(139 aged under 25 years)¹</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>259</td>
<td>41</td>
<td>79</td>
<td>43</td>
</tr>
</tbody>
</table>


Unfortunately, once again, no age-specific differentiations, other than the information of 25 years or older for the year 2016, could be inferred from the available data. According
the reports on constitutional protection (BVT), the number of Jihadis' attempts to leave the country for Syria or Iraq stagnated soon. It has even been declining steadily since 2014. The recent military backlashes on part of the IS might be informative of why less and less individuals feel inclined to serve its cause. With the loss of territory, the organization also forfeits its attractiveness towards children and young adults in Austria. Furthermore, there are indications that reports from returned foreign fighters might have led to a certain disenchantment of Jihad among young sympathisers. Their stories too often just do not match the idealized and glorifying war-images or videos, which are disseminated on the internet or on social media.53

**Convictions of children and young adults in the context of terrorist crimes**

Since 2002, Austrian criminal law has introduced new offences in reaction to the general increase in radicalisation, extremism and terrorism.

§ 278b *Beteiligung einer terroristischen Vereinigung*  
(Participation in a terrorist group)

§ 278c *Begehung terroristischer Straftaten*  
(Committment of a terrorist offence)

§ 278d *Terrorismusfinanzierung*  
(Financing terrorism; not listed below as it is less relevant to juvenile justice)

§ 278e *Ausbildung für terroristische Zwecke*  
(Training for terrorist purposes)

§ 278f *Anleitung zur Begehung einer terroristischen Straftat*  
(Instruction to commit a terrorist offence)

§ 282a *Gutheißen von terroristischen Aktivitäten*  
(Incitement or approval of terrorist activities)

More information about these offences can be found under Part B.

The following table lists all convictions delivered for adults (A) and children as well as young adults (Y) due to terrorist offences between 2014 and 2016.

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>278b</th>
<th>278c</th>
<th>278e</th>
<th>278f</th>
<th>282a</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jahr</td>
<td>A / Y</td>
<td>A / Y</td>
<td>A / Y</td>
<td>A / Y</td>
<td>A / Y</td>
<td>A / Y</td>
</tr>
<tr>
<td>2014</td>
<td>0 1 0 0 0 0</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>13 15 0 0 1 1</td>
<td>0 1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>15 21 4 1 1 0</td>
<td>0 0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>28 37=65 4 1=5</td>
<td>1=3</td>
<td>2 0 1=1 1 10=11 35 50=85</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Retrieved from the federal court proceedings automation system (Ministry of Justice, BMJ), query responses via email 20 September and 16 October 2017.

As this overview shows, most sentences – 65 out of 85 - were delivered based on paragraph 278b. Among them 37 (56%) concerning youth and young adults with a share of 28 male (76%) and 9 female (24%) young offenders. The ‘participation in a terrorist group’ is interpreted quite broadly in this context. As a result, the mere provision of propaganda information, the promotion of the organization, may under given circumstances suffice for this offence to be triggered. The proportion of children and young adults among the total number of terrorist offenders from 2014 to 2016 is striking high with 59% (50 out of 85). Among them there were 40 male (80%) and 10 female (20%) convicted young persons.

This clearly shows, that especially young people have been attracted by Islamist movements and ideas.

**Detained children and young adults**

In total, as of 1 July 2017, twelve male children and young adults are kept detained within the Austrian penitentiary system for terrorist crimes. No woman or girl has been currently held under custody in this context.54

**3. The most common profiles of youngsters convicted of terrorist offences**

Given the information provided in the previous chapters, we attempt at this point to create a typology of juvenile terrorist offenders. This analysis is based on cases of children and young adults, who were convicted of terrorist offences. Some of these individuals are, or have been, serving custodial sentences in this context in Austria. To this end, the Ministry of Justice agreed to grant us insight into 10 court records and penitentiary files55 of children and young adults convicted of terrorism. Additionally, our outcomes were informed by the Austrian study on ‘Islamist Radicalization’56 which shed light on 29 biographical narratives through interviews conducted in penitentiary bodies throughout Austria and in three youth facilities in Vienna. From this empirical material, we learned the narrative biographies of 7 children and young adults, aged between 16 and 21 years, and use these to further enrich our analysis. The data was gathered between February 2016 and August 2017. Additionally, we decided to include the biography of an individual who, at the time of this research, had already left prison. His case had incurred particular media attention. In total, we analysed a group of 18 children and young adults, whose data we categorize regarding the reason of their conviction as well as their biographical trajectories. Our typology makes references to the study of Hofinger/Schmidinger who

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54 Query response from the Ministry of Justice via email (3 July 2017):
Two detainees in Gerasdorf, one individual in pre-trial detention in Graz-Jakomini, one convict in Graz-Karlau, two convicts in Hirtenberg, one convict in Sonnberg, two individuals in pre-trial detention in St. Pölten, three individuals in pre-trial detention in Wien-Josefstadt.

55 We kindly thank the federal ministry of justice for their grateful support.

developed nine different types of convicted persons inspired by the methodological concept from the work of the Norwegian police researcher Tore Bjorgo.\textsuperscript{57}

In the light of this methodological approach four dimensions are of particular importance: the level of ideologisation, status within the group, socio-economic resources, and sensation seeking. Also borrowed from Hofinger/Schmidinger/Bjorgo are the differential categories of ‘ideological activists’, ‘drifters and fellow travellers’, and ‘socially marginalized youth’.

In terms of analysis, it is important not to conceptualise the categories as isolated or mutually exclusive, but to acknowledge that they sometimes overlap and tend to be connected either by causality or correlation. In some cases, the categories may be understood as various stages of a single trajectory too. Moreover, there is no ‘standard’ pathway, as every single biography traverses a plethora of different processes, holding every juvenile offender dependent upon very individual circumstances. Research suggests,\textsuperscript{58} however, that often it is traumatising experiences (e.g. during childhood) or crises which incentivize youths to radicalise in extremist milieus and leave their (often painful) past behind. Such experiences may include elementary incidents like the death or the absence of parents, growing up in an orphanage, experiences of violence and discrimination in Austria, or the feeling of social exclusion – i.e. ‘not to form an integral part of society’. There is never a single, paramount reason for radicalisation. Always plenty of various reasons, developments, conditions, etc. trigger juveniles and young adults to reject democratically legitimised systems and approach towards a totalitarian and violent order. Out of the 18 individuals evaluated, seven are Russian nationals of Chechen descent. This is the biggest group, followed by Turkish, Austrian, and Syrian nationals, as well as one Egyptian youth.

The disproportionately high number of Chechen youth points to the fact that Austria hosts the biggest community of exile Chechens in Europe, consisting of some 30,000 individuals.\textsuperscript{59} Most of these persons have fled the violent conflict in Chechnya during the 1990s and have stayed ever since. The trauma of war lingers on, even in those second-generation individuals, already born and raised in Austria. “They often face negative stereotypes like ‘Chechens are violent by nature’ and are frequently victims of discrimination and exclusion in schools and other public institutions. In some cases, this has led to a premature end of schooling and incentivized the youngsters to succumb to criminality” says Maynat Kurbanova, a Chechen Journalist who lives and works in Austria.\textsuperscript{60}

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\textsuperscript{59} From the interview with Maynat Kurbanova on 16 August 2017.

\textsuperscript{60} Ibidem.
3.1. Marginalised youths

This group of Chechen youngsters fits the category of ‘marginalized youngsters’ (Hofinger/Schmidinger/Bjorgo) exceptionally well. Most of them have completed compulsory schooling only and have – at best – started an apprenticeship, which they often abandon before completion.

This category is, of course, by no means applicable to Chechen youth only. Juveniles of other nationalities exhibit the very same, or similar biographical characteristics. Two of them attended special education and only one individual had received well-founded schooling. Another common characteristic of marginalized youths is that some of them have a criminal record (and convictions) involving, among others, multiple theft or drug abuse, or bodily harm before pursuing their extremist trajectory. In some cases, first contacts with radical ideology was established in penitentiaries. These ties were then strengthened in the radical milieu (e.g. in mosques) after release. A paramount element of attraction of terrorist groups is that they make marginalized youths feel taken seriously and part of a community.

3.2. Leaving Austria – as fighter or civilian

Approximately a third of the children and young adults, whose stories we evaluated here, have travelled to Syria or Iraq to actively participate in fighting, to train for combats, or to pursue a civil profession (e.g. paramedic). Important motives for their departure, as some of these individuals have claimed, were the urge to aid their ‘brothers and sisters’ and the desire to live in a country, where they could freely pursue their religion and ideals. Moreover, the image of a somewhat heroic brotherhood of warriors, well-regarded by their peers and the entire society, was considered particularly attractive by some. While Islamist ideologies played an important role for some, this influence was far from ubiquitous. Some youths radicalised from within the Islamist-extremist milieu and got encouraged by friends and/or Imams in certain Mosques to leave the country. One young adult, however, who had repeatedly made himself guilty of transporting young men to Syria by car, considers financial incentives the main motive for his actions. The sentences for returned foreign fighters ranged from two and a half years to twelve years of prison. The young adult who obtained the twelve-year custodial sentence is accused of deliberate attempted killings and murder in various occasions.

3.3. Syrian expatriates

Two of the individuals under scrutiny do fit into this group. They are young Syrian males, who had joined terrorist organizations (IS and Harakat Ahrar al Sham al Islamyya respectively) in their home country. One had fought as a combatant, while the other formed part of the so-called ‘Sharia-Police’. Due to their participation in terrorist activities in Syria, they were sentenced, in first instance, to four years of unconditional detention upon their arrival in Austria.
3.4. Persons stopped from leaving the country

This category includes approximately a third of the children and young adults in the sample, whose initial intension to go to Syria or Iraq were left unfulfilled, either because their journey was stopped at the border or they were arrested during the preparation of their trips. This starkly heterogeneous group consists of young men from different nationalities, some of whom were or still are highly ideologised, and whose specific individual reasons for leaving the country varied quite considerably. One of them wished to follow his brother into jihad, another claimed he wanted to deepen his understanding of Islam, while a third aimed at receiving military training. Reflecting these diversities, it comes as no surprise that sentences varied from acquittal, through conditional custodial sentence accompanied by highly frequent probationary service, to twenty months imprisonment.

3.5. Young men disseminating Islamic State propaganda materials

Prior to their announcement or actual planning of travels to Syria or Iraq, many young men in the sample were active on social media - typically they shared videos and photos, endorsing the IS and inciting the fight against ‘infidels’. Sometimes, this type of online propaganda served as a major tool to facilitate the recruitment of youths for jihad.

3.6. Conclusion

Every constituent member of our sample exhibited an inherently different biographical background from everybody else. The histories collected can, hence, at best be used to approximate parallels and/or similarities. Any generalization derived runs danger of ignoring or diverting attention from, both, significant explanatory patterns and socialization-specific interpretations. Therefore, we hold the opinion that, in absence of a universal panacea, all measures of deradicalisation or prevention need holistic and individually attuned concepts.
Part B: Criminal Law aspects in the national legislation

This chapter provides an overview about relevant legal standards as well as specifics regarding children and young adults in the context of extremism and terrorism. As a starting point, it has to be stated that due to the intricacies and the multiplicity of the interests pursued, as well as the diversity of its manifestations, a universal definition of “terrorism” can hardly be found. Despite numerous conventions and measures adopted to fight terrorism at the international, European, and national levels, there is no agreement as to what a valid definition of the term would entail. Also the Austrian legal system lacks any legal definition of terrorism but also of violent extremism. Nevertheless, due to the lack of a coherent legal definition, the political dimension regarding terrorism-related offences is sizeable. The notion induces immense significance - also in legal terms - along with considerable consequences. Besides wide-ranging opportunities for bi- and multilateral cooperation (extradition, information exchange, freezing of funds, etc.), counter-terrorism legislation at the national level also involves numerous competences and measures. They range from preventive policies, through administrative orders, to deciding repressive policies, especially framed in terms of criminal law. Further investigative measures (e.g. Sicherheitspaket, see below) and some possible consequences in criminal and administrative law (e.g. the above-average long duration of pre-trial detention or issues involving the potential loss of residence or asylum status) may be additionally invoked. These are highly contentious issues, which must be scrutinized critically with a human rights perspective, in order to prevent any disproportionate interference with human rights or any other infringement of human dignity in relation to the authorities’ pursuit of public safety. Safety aspects are vital to the context and there are clear reasons for why a democracy must not ever tolerate any assaults on its existence. Those situations sometimes engender a decoupling of counter-terrorism legislation, safety concerns, and repressive policies on the one hand and human rights, democracy and the rule of law on the other.

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61 Plöchl: §278b StGB, Rz 1.
62 OSCE/ODIHR, Countering Terrorism, Protecting Human Rights. A manual, Warsaw 2007, p. 22. comp. UN General Assembly, Report of the Ad Hoc Committee established by General Assembly Resolution 51/210 of 17 December 1996, Sixth session (28 January-1 February 2002), doc. A/57/37. Article 2 of the draft for the UN terrorism convention includes this controversial definition: Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, causes: (a) death or serious bodily injury to any person; or (b) serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or the environment; or (c) damage to property, places, facilities, or systems referred to in paragraph 1(b) of this article, resulting or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or abstain from doing any act.
64 OSCE, Countering Terrorism, Protecting Human Rights, 2007, p. 22.
The fundamental stipulations which define the rule of law and democracy at their core are of crucial importance in that they scope the margins of political and legal discretion. Accordingly, the state mitigates against organisations and groups, which intend to dispose these fundamental principles by force and which are deemed extremist or terrorist. Financing or participating in such organizations - whether left-, right-, or Islamist extremist in nature – is therefore prohibited and punishable by law. In the specific case of Austria, (re-)engagement of National Socialist activities (Nationalsozialistische Wiederbetätigung), National Socialist propaganda or the denial or trivialisation of crimes against humanity constitute as punishable crimes under the National Socialist Prohibition Law (Verbotsgesetz, VerbotsG). The state is supposed to act the moment a legal stipulation is being infringed.

It is, however, necessary also in this process to find a balance between countering extremism and the continuous enforcement of human rights. Case-specific, administrative and repressive policies may be well suited as a first response to an isolated case of risk. They are, however, subject to certain legal and human rights related constrictions. Criminal law, for example, may prove to be a well-suited tool if, and only if, it constitutes the last and necessary measure. Moreover, the exercise of individual repressive measures must be limited to cases of concrete threats and the state must restrain from ‘prophylactically’ imprisoning persons whom the state assumes as potentially dangerous. The latter would be a substantial backlash for the rule of law and the human rights record. Although it is frequently suggested, that the continuous public safety cannot be achieved without further repressive security measures (e.g. through more intense surveillance), Neumann emphasises that counter-terrorism efforts only yield effective and sustainable results, if they engender two kinds of freedom: Additionally to freedom from (e.g. fear, terror), the state should strive to ensure deliberative freedom to (e.g. to live in an open, democratic society based on human rights)70.

The following chapters will describe and analyse the Austrian legal framework of counter-terrorism, considering the obligations under both, the International and European human rights regimes. Part B will cover criminal law provisions, while Part D is dedicated to the pertinent administrative law.

66 Diaw, Religiös begründeter politischer Extremismus, der zu Terrorismus führen kann, 2016, pp.1 et seq.
70 Neumann, Peter opening key-note speech, OSCE-wide Counter-Terrorism Conference, Vienna, 23 May 2017.
1. Development of legislation

The emergence of laws in the context of terrorism and extremism and the related changes of the Criminal law happened as a reaction to relevant incidents and political discourse. The European Union (EU) has been among the major driving-forces of such developments in recent years. EU framework decisions have resulted in harmonisation of criminal law among Member states. In this process, the Austrian Criminal Code (Strafgesetzbuch, StGB), was amended in relation to the counter-terrorism context.

The so called Verbotsgesetz71 (National Socialist Prohibition Law, VerbotsG), which criminalizes National Socialist activities and the propagation of its ideologies in Austria, was legislated and published in the immediate aftermath of Austria’s liberation after World War II. It has been in force since then and has constitutional status. This law led to the dismantlement of all National Socialist organisations and aims to prevent its possible resurgence. Furthermore, any contribution to the goals of the National Socialistic German Workers' Party (NSDAP) was criminalized.72

In reaction to the terror attacks on September 11th, 2001, in the United States, an amendment to the Austrian Criminal Code (StGB) provided for the criminalization of three new types of criminal offense: participation in a terrorist group (§ 278b StGB), participation in a terrorist crime (§ 278c StGB), and financing terrorist activities (§ 278d StGB). All mentioned amendments were carried out under adherence to the standards of both the United Nations (UN)73 and the EU74. Apart from the central intention to facilitate criminal persecution of terrorist activities, the amendment implemented international counter-terrorism regulations75. The amendment was necessary in the light of the EU’s framework decision on combating terrorism.76

Approximately ten years later and, again, Austrian counter-terrorism laws were revised to better cope with new challenges of modern terrorism with strict adherence to international and European regulations.77 These entail the increasing significance of radicalisation through incitement of hate and violence as well as the emergence of ‘(virtual) terror-camps’ for training purposes and the preparation of terror attacks. Special attention was paid to the containment of preparatory actions, and particularly the prevention of terrorist crimes, fighting of the propaganda of radical ideas and recruitment processes.78 In 2011 training for terroristic ends (§ 278e StGB), instructions for terrorist crimes (§ 278f StGB),

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71 Constitutional Law on the Prohibition of the the National Socialist Worker’s Party (NSDAP), from 8 May 1945 (VerbotsG).
72 Verfassungsschutzbericht 2016, p. 12.
75 Wessely, Zu den neuen Terrorismustatbeständen im StGB, 2004, p. 827.
76 Governemnt bill, EBRV 1166 B1gNR XXI GP, p. 16.
as well as approval of terrorist activities and the incitement of terrorist offences (§ 282a StGB) were subsequentially penalised.\textsuperscript{79}

In early 2017, the federal government presented, as a part of its annual governmental programme, a ‘security packet’ of surveillance measures and new competences for the safety authorities\textsuperscript{80}. Instead of adding yet more offences to the catalogue, the proposal envisioned to broaden the measures available to criminal investigations. Specifically, these entailed tracing of location data, acoustic surveillance in vehicles, and surveillance of coded messages to prevent terror attacks and maintain public safety. Moreover, it sought to regulate automatic recording of vehicles’ number plates and real-time streaming.\textsuperscript{81} These draft amendments to the Criminal Procedure Code (\textit{Strafprozeßordnung}\textsuperscript{82}, StPO)\textsuperscript{83} and the Security Police Act (\textit{Sicherheitspolizeigesetz}\textsuperscript{84}, SPG)\textsuperscript{85} proved highly contentious and incited controversy among the broader public\textsuperscript{86}. Binney, National Security Agency’s former technical director and, more recently, a whistle blower holds that mass-surveillance is an unfit measure to fight terrorism and that the processing and storing of compiled data does not result in a melioration of public safety.\textsuperscript{87} The implementation of the ‘security packet’ has been halted for the time being.

Apart from the issues entwining the ‘security packet’, a possible broadening of the legal definitions of ‘preparatory criminality’ (\textit{Vorbereitungskriminalität}) has been discussed repeatedly. Such an extension might, however, engender reservations in terms of constitutional conformity. This would undoubtedly be the case, if the amendment would serve as a vehicle to create criminal responsibility for under defined offences and abstract threats, as this would open the way for arbitrary criminal persecution.\textsuperscript{88}


\textsuperscript{81} For further information comp.: Explanatory notes to the ministerial draft to the Criminal Procedure Code 325/ME XXV.GP; Explanatory notes to the ministerial draft to the Security Police Act 326/ME XXV.GP critical e.g.: Epicenter.works, Stellungnahme zum Ministerialentwurf 326/ME, www.epicenter.works/sites/default/files/epicenter.works_-_spg_bstmg_stwo_und_tkg_326_me_xxx_gp.pdf (5 September 2017, in German).

\textsuperscript{82} Strafprozeßordnung 1975, BGBl 631/1975.


\textsuperscript{88} See e.g. for the discourse on a proposal to use electronic shackles for potential attackers (“Gefährder”), which was withdrawn eventually: BIM position paper. 9/2017: Zum Arbeitsprogramm der Regierung betreffend Fußfesseln für „Gefährder_innen“ sowie „Rückkehrzentren“, www.bim.lbg.ac.at/sites/files/bim/anhang/publikationen/bim_position_nr_9_arbeitsprogramm_gefahrderruckkehrzentren_0.pdf 6 June 2017).
2. National legislation in the Terrorism & Extremism Context

Although Austrian law lacks a legal definition of the term ‘terrorism’, the word is used in a number of statutory provisions. The following analysis does not limit itself to those stipulations using the words “terrorism” or “terrorist”. Rather, and additionally, it will include a discussion of the long-standing Verbotsgesetz, to offer a comprehensive overview of the national laws concerning terrorism and extremism. While the Verbotsgesetz penalizes offences, generally associated with right-wing extremism, the Criminal Code (Strafgesetzbuch, StGB) entails – generally speaking – all other offences in the context of terrorism and (violent) extremism (e.g. also left-wing extremism or religiously motivated extremism). In the following every pertinent offence will be depicted in detail.

Within the project we received access to court files from different counties in order to analyse the legal framework. Between August and October 2017 we accessed in total ten files of children and young adults convicted (partly the appeal was still pending) in the context of terrorist crimes according to the StGB. In no way can the conclusions from the analysis be seen as representative but should rather give an insight into the practical application of the national legislation.

2.1. National Socialist Prohibition Law (VerbotsG)

Not only did the VerbotsG disband the NSDAP, its militias, its sub-organizations and conjunctures, as well as any other type of National Socialist organization or institution, but it simultaneously outlawed their reformation. Furthermore, it penalises “and be it outside of any of those organizations, to act in any way on part of the NSDAP or in pursuit of its aims”.

New formation of and participation in a National Socialist organisation (§§ 3a, 3b VerbotsG)

Firstly, the stipulations of the VerbotsG outlaw the re-institution of any of the disbanded national-socialist organizations or the formation of any new organization that pursue aims and ideology associated with National Socialism. Apart from the actual founding, this penalization also applies to any act of recruitment of members or the provision of significant financial or other resources (§3a VerbotsG; rendering offenders liable to 10-
20 years of custodial sentence and, possibly, life sentence in cases of particular danger posed by the person concerned).  

Secondly, according to §3b VerbotsG, persons supporting such an organization or participating in it are subject to punishment in the form of custodial sentences of 5 to 20 years. If a person, however, ends participation in a National Socialist organisation before authorities obtain knowledge of his or her participation, and if, in addition, this person reveals the organization’s undertakings to the public, the person’s criminal liability in the case is abolished. This clause is called tätige Reue – ‘deliberate and active repentance’.

Public incitement of National Socialist reengagement (§ 3d VerbotsG)

This stipulation aims to inhibit the encouragement of offences under the VerbotsG. Hence, individuals who request, incite, or entice others to commit a crime under the VerbotsG, and whose such actions are public or witnessed by third parties, render themselves subject to punishment. The range of punishable utterances is held to include exalting or eulogizing speech with pertinent, national-socialist content, whenever the context in which it is received involves the speaker’s intention to exert influence upon others. Thereby, the law aims to prevent even implicit, subliminal influencing. In addition to any public utterances, the dissemination of incitement in written, printed, or electronic form is equally penalized. The possible sentences range from custodial sentences of 5 to 10 years but may extend up to 20 years due to severity.

Violent crimes as National Socialist offences ( §§3e, 3f VerbotsG)

In some cases, violent crimes as defined and penalized according to the general Criminal Code (StGB) may entail additional charges, if they are committed as expression of national-socialist intentions or actions. This may apply to crimes like murder, robbery, severe damage of property, as well as endangerment of the broader public. Punishments range from custodial sentences of 5 to 10 years, extendible up to 20 years based on the severity of the crime.

Reengagement (§3g VerbotsG)

This regulation leaves a broad margin of interpretation as to what it entails. This is intentional, as it allows the judiciary to effectively counter all legally relevant tendencies of National Socialist restoration and revisionism attempts.

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93 These comparatively serious punishments for crimes under the VerbotsG reflect the serious impact of National Socialism in Austrian history, as a reaction to which this law came into existence. For a critical analysis on the serious punishments see: Platzgummer, Winfried: Die strafrechtliche Bekämpfung des Neonazismus in Österreich, ÖJZ 1994, p. 753.


95 § 3c VerbotsG.


97 §§ 3e, 3f VerbotsG.


99 Platzgummer, Die strafrechtliche Bekämpfung des Neonazismus in Österreich, pp.753 et seq.
The elements of this crime can be fulfilled by various offences. It is solely decisive on whether an action involves the pursuit of typical National Socialist program items and, hence, perceivably serve interest in Nazism. Reengagement is, by default, an abstract offence. This means the aims intended by the offenders must not find realisation to trigger this article. Rather the very aspiration of National Socialist activities is deemed sufficiently a threat to find legal relevancy.\(^{100}\) As a result, any impertinent, lopsided, glorifying, or propagandistically favourable statement about NS-ideology or its significant figures with the intent of reengagement can trigger this article.\(^{101}\) It is, moreover, not necessary that the action displays the plethora of NS ideology in depth. Belittling, countenancing, or denying parts of the content, associated with Nazism is enough.\(^{102}\) The use of pertinent slogans, symbols, or gestures is to be met with punishment, if it is used to express a trivialization of the atrocities, the intentions, or ideology integral to this ideology. Noteworthy, the denial or belittling of the holocaust, too, yields a legal basis for punishment (1-10 years custodial sentence with the option of up to 20 years in severe cases) under this article, whenever it entails a reengagement by the offender.\(^{103}\)

\textit{Denial, trivialization or justification of the atrocities committed by the NS regime. (§ 3h VerbotsG)}

The inclusion of this crime into the VerbotsG formed part of an amendment in 1992.\(^{104}\) It penalises denial, trivialisation, and justification of the genocide and other crimes against humanity committed by the National Socialists. Forms of penalised discourse may involve spoken word, printed documents, and electronical propaganda materials, if disseminated publicly. In contrast to § 3h VerbotsG, the applicability of this article is not limited to cases, which involve aspired reengagement by the offender.\(^{103}\) Punishment varies from one to twenty years of detention.

\subsection*{2.2. Offences under the criminal code (StGB)}

\textit{Participation in a terrorist group (§ 278b StGB)}

This stipulation aims at pre-empting terrorist activities and penalising them before any aggression has taken place. Merely belonging to a terrorist group constitutes a crime. This way pre-emption of terrorist menace is intended to be pursued actively.\(^{106}\)

\begin{thebibliography}{9}
\footnotesize

\bibitem{100} Vgl. Lässig, Rudolf: §3g VerbotsG in Höpfl, Frank/Ratz, Eckart (eds): Wiener Kommentar zum Strafgesetzbuch, 2nd edition, Vienna (status as of 1.8.2015), Rz. 8.

\bibitem{101} Lässig § 3g VerbotsG.

\bibitem{102} Platzgummer, Die strafrechtliche Bekämpfung des Neonazismus in Österreich.

\bibitem{103} Lässig § 3g VerbotsG; The Austrian Delegation to the OSCE-Conference on Anti-Semitism: Überblick über die österreichische Gesetzeslage im Bereich "Nationalsozialistische Wiederbetätigung und Rassismus", PC.DEL/301/04, 2004(German).

\bibitem{104} BGBl 1992/148.


\bibitem{106} Plöchl, Franz: §278b StGB, Rz 2. On the issues of delimitation and attribution of a terrorist organization, see: Wessely: Zu den neuen Terrorismustatbeständen im StGB, 2004, pp. 827 et seq.

\end{thebibliography}
A terrorist group is defined as a long-term compound of more than two persons, who aim to facilitate the execution of one or more terrorist crimes by one or more of its members or who fund such activities.\textsuperscript{107} The requirements for the degree of organisation are to be set low.\textsuperscript{108}

The law does not require any specification in the planning of the offence. The intention to commit a terrorist crime suffices to render the perpetrators liable, no matter which level of concrete details has been decided yet.\textsuperscript{109} Further the criminal offence is fulfilled, if a person is part of a terrorist group and conducts actions in coordination or cooperation with the group.\textsuperscript{110} Acts that emerge without consultation or collaboration with other group members do, by themselves, not constitute this offence, even when they coincide with the group’s general interest.\textsuperscript{111}

The crime is committed if a person leads a terrorist group (punishable by five to fifteen years of imprisonment) or actively take part as a member (punishable by one to ten years of imprisonment). Taking part entails committing a terrorist offense or supporting a terrorist group or its punishable offense(s), e.g. by providing information or financial means to its disposal or fulfilling some official role within the organisation’s structure (either from Austria or abroad) or in any other way; also the psychological support to strengthen the moral of the group or individuals in the willingness to carry out offences that correlate with the group interest.\textsuperscript{112} Furthermore, readiness to engage in a possible future “operation” whenever it may be intended by the organisation (“sleepers”) fulfils the criterion of partaking.\textsuperscript{113} If a threat of terrorist aggression is expressed without intention of carrying out such menaced action eventually, this, too, constitutes as a punishable crime (amounting to imprisonment of one up to ten years).\textsuperscript{114} Notably, exemptions from punishment for this offence are not possible, even if the person chooses to abandon the organisation before the authorities become aware of his or her contribution.\textsuperscript{115} It will come as no surprise that most convictions in the terrorism-context concern this offence,\textsuperscript{116} as the margin of consideration with regards to its content is kept rather broad. However, even under these conditions, the criminal investigation of the pertinent facts continues to be a great challenge.

\textsuperscript{107} § 278b par.3 StGB.
\textsuperscript{108} Wessely, Zu den neuen Terrorismustatbeständen im StGB, 2004, pp. 827 et seq. This is different from an ‘organization’ in the context of § 278a, which is defined more narrowly. That being said, according to the national jurisprudence the so-called ‘Islamic State’ meets the requirements of ‘organizational structures’ of § 278a StGB.
\textsuperscript{110} Explenatory notes to the ministerial draft, EBRV 1166 BlgMT 21. GP 35.
\textsuperscript{111} Wessely, Zu den neuen Terrorismustatbeständen im StGB, 2004, pp. 827 et seq.
\textsuperscript{113} Ibidem, §278b StGB, Rz. 11.
\textsuperscript{114} Ibidem, Rz. 8.
\textsuperscript{115} To be considered in the mitigation of punishment. Plöchl: §278b StGB, Rz. 27.
\textsuperscript{116} Ibidem.
Terrorist offences (§278c StGB)

Terrorist offences are certain criminal offences which are regulated by other, more general stipulations, but fall under precedence of this article whenever the following three conditions are met jointly.

Crimes which fall under consideration to be terrorist offences are listed in the first paragraph. They include amongst others murder, grievous bodily harm, grave coercion, dangerous threatening, severe damage of property, damage of data, and other general hazard offences. In any case, one of these offences must have been put into effect, to render §278c StGB applicable. In counteraction to violent radicalization, it has been decided that countenancing terrorist offences (§282a StGB) also constitutes a ground for triggering §278c StGB.

The action must exhibit what is called ‘terrorist suitability’. This means that it must be suitable of causing severe and long-lasting damage to, public safety and/or the economy. The criminal action must prove suitable of creating panic, chaos, and strife due to its nature (e.g. the use of a dirty bomb), its strategy, or the respective context (e.g. more than one act simultaneously).

Furthermore, it must have been committed with a “terrorist intent”, which describes the malice to cause grave intimidation within the population, to try to force a state or an international organization to act (or refrain from action), or to destroy or seriously dismantle the political, constitutional, or socio-economic foundations of a state or an international organization. The aim is always the (partial) removal of the present foundations of state and society using illegitimate force. Actions aimed to reinstate democracy, the rule of law or the abidance to human rights are explicitly exempted from this regulation according paragraph 3.

One major challenge is to evaluate whether or not there is terrorist intent. Furthermore, certain questions may arise about the moment from which onwards relevant preparatory actions are suspected to have taken place.

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117 Wessely, Zu den neuen Terrorismustatbeständen im StGB, 2004, pp. 827 et seq.
120 Plöchl § 278c, Rz. 8 et seq.
121 Ibidem, Rz. 18.
122 See Wessely, Zu den neuen Terrorismustatbeständen im StGB, 2004, pp. 827 et seq.
In one case, the court decided that the youth had not yet entered the preparatory stage for an attack, which is why the defendant was convicted of the study of instructions to commit a terrorist crime (i.e. §278f StGB) rather than for the attempt of committing a terrorist offence according to §278c StGB.

The maximum sentence depends on the nature of the basic criminal offence fulfilled. As terrorist offence, this maximum allowance is subsequently augmented by fifty percent. In no case, though, may the sentence exceed a time span of twenty years.123

**Training for terrorist purposes (§278e StGB)**

The penalisation of terrorist training substantiates the necessity of addressing and outlawing those steps, which precede more serious terrorist crimes.124 This offence concerns training in a conventional sense.125 That entails any manual, technical (e.g. hacking, pilot's license) or otherwise combat-related training as well as imparting skills regarding the making and use of explosives.126 Penalisation concerns, both, educators (punishable by one to ten years of imprisonment) and trainees (punishable by six months to five years of imprisonment). Notably, the scope of this law entails training via SMS, email, or the internet in a so-called 'virtual training camp'.127 The translocation to a physical training ground in some foreign country meets the criteria of this offence too.128 If, for any external reason (e.g. the coincidence of the planned training period with the fasting month of Ramadan), the intended training is temporarily or permanently suspended, this nevertheless substantiates a case of intended training for terroristic purposes. Not punishable under this article are attempted but stopped departures from Austria with the intention to participate in a training, as in such a case the training is not yet imminent.129

**Instruction to commit a terrorist crime (§278f StGB)**

This provision, too, addresses pre-terrorist attack processes. Unlike §278e StGB, it targets the provision of information resources on the internet or of a certain data medium (e.g. books, posters, magazines, USB-sticks, DVDs, CDs, etc.), the self-study of which intends to convey pertinent knowledge on how to commit terrorist attacks. In this sense, the provision of such materials can be considered concrete instruction, and both the instructor and the instructed render themselves subject to a custodial sentence of up to two years.130

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123 Plöchl: §278c Rz. 25.
125 Ibidem.
126 Ibidem, Rz 9.
127 Ibidem, Rz 13.
128 Ibidem, Rz16.
129 Ibidem.
Incitement to or approval of terrorist offences (§282a StGB)

Individuals who incite others to commit a terrorist crime are to be punished with up to two years of imprisonment. The incitement is taken to have happened in a public manner, as e.g. via print media, radio, in the course of a bigger, public or semi-public event, or – in particular – on the internet.\textsuperscript{131} Although not explicitly stipulated, it can be assumed that inciting crimes to be carried out in another country can also be penalised. As the paramount aim of this article is to contain international terrorism, it also penalizes ‘preachers of hatred’ for encouraging others to leave the country in pursuit of terrorist crimes somewhere else.\textsuperscript{132}

Approval of terrorist offences also constitutes a punishable offence (maximum of two years imprisonment). A euphemistic statement itself does not necessarily constitute a crime under this article. In order for a presentation of a crime as laudable or exemplary to be penalized, the statement must have occurred in a context and under circumstances, which perceivably could inspire and lead the way to new attacks.\textsuperscript{133}

\textit{“It should be noted that the mere manifestation of a radical-extremist attitude of its own, without developing an extent of propagandistic activity beyond the demonstration of ideological affiliation, is in itself incapable of fulfilling the facts, unless that because of the particular identity of the perpetrator’s person in it is a particular suitability for the indoctrination of others."}\textsuperscript{134}

In most cases that led to a conviction, videos, photos and postings with pursuant contents were disseminated on social media. It is irrelevant, whether the crime endorsed has occurred in or outside of Austria.\textsuperscript{135}

2.3. Particularities regarding juvenile justice cases

In Austrian law there are no criminal offences specifically defined for juvenile offenders in the context of terrorism or violent extremism. Hence, the general provisions of StGB and VerbotsG find analogous application.

\textsuperscript{131} Plöchl, Franz: § 282a StGB in Höpfl, Wiener Kommentar zum Strafgesetzbuch, Rz. 4.

\textsuperscript{132} Plöchl: § 282a StGB, Rz. 5.

\textsuperscript{133} Plöchl: § 282a StGB, Rz. 8f.

\textsuperscript{134} Finding from file inspection carried out between August and October 2017 in the context of the project.

\textsuperscript{135} Plöchl: § 282a Rz. 8 et seq., Data obtained by examination of files, courtesy of the Ministry of Justice.
Between 2014 and 2016 there have been 50 convictions of children and young adults under the VerbotsG. Between 2014-2016, 50 children and young adults were convicted of one or more of the terrorist offences under §§ 278b, c, e, f, and 282a StGB. Almost two thirds thereof were convicted for having participated in a terrorist organization (§278b StGB), roughly 20 percent rendered themselves guilty of approval of terrorist offences (§282a). Convictions under the remaining articles have occurred only sporadically.\(^{136}\) The offences recorded during this time period range from social media postings and dissemination of pertinent contents on the internet, to (successful or inhibited) attempts of departure, and even participation in combat in Syria.\(^{137}\) As to July 2017, no indictments concerning an attempted or implemented terrorist attack has been filed.

3. Specifics of national law regarding youth and young adults

No separate or special criminal offences are defined for young offenders in relation to terrorism and violent extremism. Instead, the Youth Court Act (Jugendgerichtsgesetz, JGG)\(^{138}\) is applicable with the usual (adult) offense stipulations of the Criminal Code. Differences in the handling of children and young adults result amongst others from the provisions regarding margins of sentencing, judicial competences, and occasionally

\(^{136}\) Own calculation based on the data retrieved from the federal court proceedings automation system (Ministry of Justice, BMJ), query response via email, 20th of September and 10th of October 2017.


the concrete court proceedings.\textsuperscript{139} The Youth Court Act takes precedence over more general criminal justice legislation, including the Criminal Code (\textit{Strafgesetzbuch} 1974), the Criminal Procedure Code (\textit{Strafprozessordnung} 1975) and the Prison Act (\textit{Strafvollzugsgesetz} 1969).

Following the relevant provisions in the Convention on the Rights of the Child (particularly article 40),\textsuperscript{140} the state must focus on “promoting the child’s reintegration and the child’s assuming a constructive role in society”. The legislator stood abreast of this notion by establishing ways to avoid the imposition of pre-trial detention and custodial sanctions upon youth and young adults wherever possible; when performing jurisdiction in juvenile justice cases, courts have at their disposal a greater margin of discretion and more available measures. Most notably, these entail easier diversion, an entitlement to a “guilt judgement without punishment” or suspended custodial sentence only, measures like the so-called social network conference (\textit{Sozialnetzkonferenz}, SoNeKo), and a reduced penalty range to facilitate the avoidance of any kind of detention of juvenile offenders. After all, it is essential that a minor or young adult should only be deprived of his or her liberty and put in detention as a measure of last resort.\textsuperscript{141}

\section*{3.1. Minimum age of criminal responsibility}

According to the Youth Court Act, individuals cannot be held responsible before the completion of 14 years of age.\textsuperscript{142} Only after their fourteenth birthday can individuals be persecuted by criminal law. Before that threshold, a person is considered ‘incapable’ of committing a crime in a legal sense. This is an absolute threshold and is valid regardless of the person’s biological or psychological stage of development or the gravity of the respective crime.\textsuperscript{143} Therefore, those under fourteen years of age must not be legally prosecuted under any circumstances.\textsuperscript{144}

\section*{3.2. Children and young adults}

The Austrian Youth Court Act\textsuperscript{145} defines \textbf{children} as persons, who have completed their 14\textsuperscript{th} year of age, but have not yet reached the age of 18. A \textbf{juvenile offense} (i.e. a criminal offense committed by a youth offender) cannot be penalised as an adult crime

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{139} Schroll, Hans Valentin: § 1 JGG in Höpfl, Frank/Ratz, Eckart (ed.): Wiener Kommentar zum Strafgesetzbuch, 2nd edition, Vienna (status as of 1.10.2016), Rz.14.
\item \textsuperscript{140} Convention on the Rights of the Child, General Assembly resolution 44/25 of 20 November 1989.
\item \textsuperscript{141} Maleczky, Oskar: Österreichische Jugendstrafrecht, Vienna 2016, Rz 1.1.
\item \textsuperscript{142} In special cases, when the offender is attested insufficient maturity to reflect upon the offense committed, the person may prove not to be punishable even after the 14th birthday (§4 para.2 Z.1 JGG); Especially if 14 to 15-year-olds are concerned, charges will only be sentenced in severe cases (exclusion of punishment, Strafausschließungsgrund, § 4 para.2 Z.2 JGG).
\item \textsuperscript{143} Schroll, Hans Valentin: § 4 JGG in Höpfl, Frank/Ratz, Eckart (eds): Wiener Kommentar zum Strafgesetzbuch, 2nd edition, Vienna (status as of 1.10.2016), Rz. 2.
\item \textsuperscript{144} However, there may be family-law implications to the case, comp. Schroll: §4 JGG, Rz. 9.
\item \textsuperscript{145} Schroll, § 5 JGG in Höpfl, Rz. 1.
\end{itemize}
\end{footnotesize}
regardless of its severity. This refers to the age at the time the crime happens.\textsuperscript{146} A **youth criminal case** is, thus, a criminal case brought against a youth. Such cases are subject to the provisions of the Youth Court Act, the application of which cannot be suspended.\textsuperscript{147} The Youth Court Act further differentiates between children and **young adults**, the latter of which are persons who have completed the eighteenth, but not the twenty-first year of age.\textsuperscript{148} As with children, young adults cannot be tried in an adult criminal case. Although no formal equalization of children and young adults has taken place, there has been considerable convergence, so that certain provisions of the Youth Court Act refer also to young adults.\textsuperscript{149}

### 3.3. Police custody and interrogation

Besides the international\textsuperscript{150} and European framework\textsuperscript{151} on a national level especially the Criminal Procedure Code and the Youth Court Act regulate the treatment of youth and young adults while in police custody. While there are some specificities for children and young adults in the investigation phase and police custody, the national law does not foresee different procedures related to terrorist offences. Thus, the same safeguards apply to children and young adults who are suspected of having committed a violent extremist offence.

In general, the arrest and any deprivation of liberty of children and young adults are subject to stricter scrutiny as regarding adults.\textsuperscript{152} If nevertheless, a deprivation of liberty is deemed necessary, the suspected person has to be brought without delay before the competent court, at the latest 48 hours after arrest.\textsuperscript{153} Further, the procedural safeguards in place for adults are equally applicable, however, differ partly for children, especially when it comes to the notification of parents or legal guardians or welfare agencies involved. The specific regulations concerning the notification of representatives do not apply to young adults.\textsuperscript{154}

Thus, every juvenile or young adult has equally the right to be informed immediately of the reasons for their apprehension or arrest and his or her rights.\textsuperscript{155} Similarly, the suspect has the right to have the free assistance of an interpreter if he or she cannot understand or

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\textsuperscript{146} Maleczky, Jugendstrafrecht, 2016, p. 128 et seq.
\textsuperscript{147} Schroll, § 1 JGG, Rz. 16 et seq.
\textsuperscript{148} The information in this report refers to youths and young adults likewise unless stated otherwise.
\textsuperscript{149} § 46a JGG; The stipulations and their differences will be discussed in further detail in the following chapters.
\textsuperscript{150} Convention on the Rights of the Child, General Assembly Resolution 44/25 of 20 November 1989, esp. Articles 37 et seq.
\textsuperscript{152} Schroll, Hans Valentin: § 35 JGG in Höpfl, Frank/Ratz, Eckart (eds): Wiener Kommentar zum Strafgesetzbuch, 2nd edition, Vienna (status as of 1.10.2016), Rz 1 et seq.
\textsuperscript{153} § 172 (1) StPO.
\textsuperscript{154} §§ 35, 37 JGG, but see § 46a JGG for young adults.
\textsuperscript{155} § 50 StPO.
speak the language used. On the request – and only then – of children or young adults suspected of having committed a crime should a representative (e.g. parent, guardian, probation officer, etc.) participate in all police interrogations if not already represented by a lawyer. In the case of suspects who are unaccompanied minors, the youth welfare services has guardianship. The representative has the right to be present at the interrogation and thereby support the suspect but in general not the right to question, advice or intervene.

While there is no mandatory legal representation during police interrogations, the youth or young adult has a right to legal assistance. Further, if the cases are in the competencies of the provincial courts (see below 3.4) legal aid has to also be provided for the pre-trial phase which includes police interrogations if the general conditions are fulfilled. Additionally, a present legal assistant of a youth or young adult cannot be suspended during a police interrogation even if their presence may hinder the investigation.

3.4. Competencies in juvenile justice cases

Offences concerning terrorism or violent extremism are dealt with by the ordinary courts, according to general criminal law.

Notwithstanding the generally acknowledged importance and necessity to address juvenile justice separately, there are no specialized youth-courts in Austria (anymore). Cases against children and young adults are held before regular courts. Whether responsibility lies with a district court or a provincial court and as to whether the case shall be decided upon by a single judge, a jury, or a group of lay assessors all depend on the possible threat of penalty (before the reduction due to the Youth Court Act, see 2.3.3.). For some offences, competence of the provincial court, in a jury or lay court constellation, is provided for specifically by the law (i.e. special competence or Eigenzuständigkeit):

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156 § 56 StPO.
159 Schroll, §37 JGG in Höpfel, Rz 10.
161 Schroll, §37 JGG in Höpfel, Rz 3/2.
162 Some states have established specialised anti-terror courts, which also have jurisdiction in juvenile justice cases. Yet other countries may put such cases under military courts competence. See: Penal Reform International: Children and violent extremism: International standards and responses from criminal justice systems, 2017, p. 9.
163 See Schroll, §§ 20-24 JGG in Höpfel, Rz. 1. / Maleczky, Jugendstrafrecht, 2016, Rz. 1.3.
164 According to the Austrian Constitution, “the people have to right to contribute in the judicial process”. This is implemented via jury- and lay jurisdiction practice. A jury (Geschworenengericht) consists of three judges and 8 jurors. The jurors judge by themselves (i.e. without the judges) whether or not a person is guilty. The punishment is decided upon by both the judges and the jurors cooperatively. A Lay-court (Schöffengericht) consists of one or two judges (depending on the crime committed) and two lay assessors. Lay assessors and judges decide together, whether the accused is to be found guilty and which punishment is appropriate.
infringement of the *VerbotsG* is a valid example for obligatory jury-jurisdiction,\(^\text{165}\) while participation in a terrorist group falls under lay-jurisdiction.\(^\text{166}\)

Cases to be held before a jury due to threat of a high penalty, must only involve offenders of 16 years or older. Such cases, involving offenders younger than 16 years (i.e. 14 or 15 years) are, accordingly, excluded and brought before a lay-committee instead. However, even cases involving this age group fall under jury competence, where special competence (*Eigenzuständigkeit*), applies (e.g. *VerbotsG*).\(^\text{167}\)

<table>
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<tr>
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<td>PROVINCIAL COURT</td>
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</tbody>
</table>

\(^\text{1}\) §§ 29 et seq. StPO.
\(^\text{2}\) This list is limited to the offences relevant to the report.
\(^\text{3}\) E.g.: training for terrorist ends (charged against the trainee, *§278e* para. 2 StGB); Instruction for a terrorist crime (*§278f* StGB). Request of or voicing support for a terrorist crime (*§ 282a* StGB).
\(^\text{4}\) E.g.: training for terrorist ends (charged against the trainee *§278e* para. 1 StGB).

There are specialised judges and public prosecutors who are assigned juvenile justice cases according to the allocation of responsibilities. They must have had special training and prove a certain understanding of pedagogy.\(^\text{168}\) Moreover, judges and prosecutors entrusted with juvenile justice cases are expected to have acquired certain knowledge in the fields of psychology and social work.\(^\text{169}\) While a violation of the allocation of responsibilities can be reason for nullity (i.e. voidness) of a sentence, missing qualifications of either the

\(^\text{165}\) § 3j VerbotsG; political crimes also fall under jury-jurisdiction. Cases of §§ 278b et seq. StGB do not trigger jury-jurisdiction. See Wessely, Zu den neuen Terrorismustatbeständen im StGB, 2004, pp. 827 et seq.
\(^\text{166}\) § 32 para. 1a Z.9 JGG.
\(^\text{167}\) Schroll, § 27 JGG in Höpfl, Rz. 2.
\(^\text{168}\) E.g., working experience or training in the youth care context. Schroll, § 30 JGG in Höpfl, Rz. 1.
\(^\text{169}\) Schroll, § 30 JGG, Rz. 1 et seq.
judge or the prosecutor cannot constitute such a ground.\textsuperscript{170} Furthermore, within the public prosecution, a special competency for extremist crimes is provided for, whenever cases involve offences under the VerbotsG, §§ 278b et seq. or § 282a StGB. It stipulates that the responsibility for such cases must be given to specialised prosecutors, as processing the case-documents will most likely require specific expertise in the field.\textsuperscript{171}

Additionally, law has it that, in cases of jury- or lay jurisdiction, at least half of the members (four out of eight jurors or one out of two lay-assessors) must have completed a degree, an apprenticeship, or other qualifications relevant to youth-care or must have recent or past working experience therein. Deviation from this court-composition rule can be asserted, potentially leading to nullification of any sentence proclaimed during the process.\textsuperscript{172}

3.5. Sentencing

Under the Youth Court Act (JGG), the range of penalties for juvenile offenders (children and young adults) is lowered:\textsuperscript{173}

<table>
<thead>
<tr>
<th>USUAL RANGE OF PENALTIES</th>
<th>AGE &lt; 16</th>
<th>AGE &lt; 18</th>
<th>AGE &lt; 21</th>
</tr>
</thead>
<tbody>
<tr>
<td>CUSTODIAL SENTENCE (CS)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Life sentence, or CS of 10-20 years, or including life sentence.</td>
<td>1-10 years</td>
<td>1-15 years</td>
<td></td>
</tr>
<tr>
<td>CS of 10-20 year</td>
<td>6 months – 10 years</td>
<td>6 months – 15 years</td>
<td></td>
</tr>
<tr>
<td>other CSs</td>
<td>No lower limit to sentence, maximum threat of penalty is halved</td>
<td>No lower limit to sentence</td>
<td></td>
</tr>
</tbody>
</table>

Sentences under adult criminal law convey both a special-preventive and a general-preventive purpose: The prior prevents the specific offender from reengaging in criminal activity. The latter describes the notion that a sentence may prevent others from following the offender’s model. The Youth Court Act is differently designed in this regard: With children and young adults the special-preventive aspect dominates, i.e. the priority is to prevent the specific individual sentenced upon from committing another crime.\textsuperscript{174} The analysis of the files shows that to decide on special preventive aspects courts not only assess the risk of committing another crime but also the continuing ideological conviction.

\textsuperscript{170} Schroll, § 28 JGG in Höpfl, Rz. 3/1 und 8.
\textsuperscript{172} Schroll, § 28 JGG, Rz. 14.
\textsuperscript{173} §§ 5 Z.1-4 and 19, para.1 JGG.
\textsuperscript{174} §§ 5 Z.1 und 19 iVm 5 Z. 1 JGG. Schroll, § 5 JGG, Rz. 9 et seq.
This is not to say that general-preventive considerations are entirely abstracted from juvenile justice sentences. Rather the scope is limited to those few special cases, the circumstances of which make general-preventive considerations seem indispensable.\textsuperscript{175} The Austrian Supreme Court considers general-preventive elements as not entirely irrelevant, e.g. in cases of “politically motivated criminality, which aims to find social resonance”.\textsuperscript{176} It particularly refers to “massive National Socialist reengagement according § 3 VerbotsG”.\textsuperscript{177} On the ground that numerous youth and young adults have participated in the activities of the terrorist groups in Syria and Iraq, also in these cases exceptionally general preventive considerations are applied; thus further potential offenders should be deterred of committing similar offences.\textsuperscript{178}

3.6. Pre-trial detention

Detention on remand may only be imposed if it is necessary and there are no other less intrusive measures available. While universally valid, these standards should be adhered to with particular thoroughness concerning children and young adults. Hence, pre-trial detention must not be imposed if the purpose of detention can also be fulfilled by some measure of family- or child welfare, possibly in connection with other appropriate measures. Moreover, personal development and pursuit must not be infringed upon to an extent, unproportioned to the crime committed.\textsuperscript{179} Thus, pre-trial detention of children or young adults should be the exception and, where necessary should be limited to the absolute minimum possible.\textsuperscript{180}

For children and young adults suspected of having committed an extremist crime, the imposition of pre-trial detention is subject to the same scrutiny and is only to be executed if absolutely necessary. Remand is not legally obligatory for extremist crimes. Rather, the decision on whether or not to impose it is made on a case to case basis. All other conditions aside, scrutiny involves the question on whether lenient measures\textsuperscript{181} could be adopted instead of remand. Depending on the specific case, these may include:

\begin{itemize}
\item Schroll, § 5 JGG, Rz. 9.
\item Translated internally, the original text reads: “auf soziale Resonanz abzielenden, politisch motivierte Delinquenz”.
\item Supreme Court decision (OGH) 12 Os 127/88, 19 January 1989. Translated internally, the original text reads „massiver nationalsozialistischer Wiederbetätigung nach §3 VerbotsG“. See also: Schroll, § 5 JGG, Rz. 9.
\item Findings from file inspection carried out in the context of the project. Comp. Schroll, § 5 JGG, Rz. 9 and § 14 JGG Rz. 6.
\item § 35 JGG. Information on the social network, personal living conditions, and applicable alternatives to remand is gathered to facilitates the courts’ decision by the juvenile court assistance (Jugendgerichtshilfe, §§ 47 et seq. JGG).
\item Gouvernement Bill, RV 852, XXV.GP, Bundesgesetz, mit dem das Jugendgerichtsgesetz 1988, das Strafgesetzbuch und das Bewährungshilfegesetz geändert werden, und mit dem ein Bundesgesetz zur Tilgung von Verurteilen nach §§ 129 I, 129 I lit. b, 500 oder 500a Strafgesetz 1945 sowie §§ 209 oder 210 Strafgesetzbuch erlassen wird (JGG-ÄndG 2015) p. 7. Ministry of Justice: Untersuchungshaft für Jugendliche – Vermeidung, Verkürzung, Vollziehung, Abschlussbericht des Runden Tisches, Vienna 2013, pp. 42 et seq. If remand must be imposed, it has to take place in the appropriate penitentiary institution or a specialized department of another institution, separate from adult detainees. This applies regardless of the type of crime. (§ 36 par.1 und 2 JGG.).
\item § 173 para 5 StPO.
\end{itemize}
Social Network Conference (SoNeKo) and highly frequent probation support

In cases of juveniles on remand it is common practice to consider - through the provision of a SoNeKo\textsuperscript{182} – whether a release is feasible “under lenient measures and imposition of highly frequent probation support”.\textsuperscript{183} Probationary services are often considered an adequate substitute for juvenile remand,\textsuperscript{184} in particular where it may help to prevent further radicalization, as can occur in detention.\textsuperscript{185} The eventual decision lies with the responsible court.\textsuperscript{186}

House arrest

At the request of either the prosecutor or the accused, the remand may be transformed into domiciliary arrest, when there are no other lenient measures at disposal and it is deemed sufficient to assure the purpose of detention. It is necessary, in this regard, that the person involved agrees to wear electronic ankle cuffs. The introduction of such instruments of surveillance is being considered for those cases, in which the imposition of remand would be disproportionate. Decision-making power lies with the courts.\textsuperscript{187} This measure could be enforced in cases of strong suspicion that an individual forms part of a terrorist organisation (§278b StGB), especially then, if it can perceivably pre-empt further radicalization and does not involve a threat to public safety. If a threat of a terrorist offence (§278c StGB) is assumed, this lenient measure is usually not considered suitable.\textsuperscript{188}

If a case seems fitting for the application of house arrest, the prosecutor is encouraged to consult the Federal or provincial Office for the Protection of the Constitution and Counter-Terrorism (BVT or LVT) for a specific risk assessment. Subsequently, it is indicated to consider, whether house arrest is suitable for the specific situation (e.g. if there are sufficiently stable life circumstances). In cases involving juvenile suspects, the question of suitability of house arrest can also be deliberated upon with the suspect’s social network through a SoNeKo.\textsuperscript{189} Prior to the decree on electronically monitored house arrest in cases of § 278b et seq. StGB, this measure has found hardly any application.\textsuperscript{190} It remains to be seen if it will find wider application in future cases.

Importantly, it seems that although the necessity of remand is rebuttable even in cases of extremist crimes, it is common to assume it is – as can be deduced from the case-

\textsuperscript{182} See Part C, 4.1.
\textsuperscript{183} Interview conducted with a representative of Neustart on 5 July 2017.
\textsuperscript{184} Glaeser, Deradikalisierung durch Bewährungshilfe, 2016, p. 3.
\textsuperscript{186} § 35a (2) JGG, § 173 (5) StPO. The support during pre-trial detention is responsibility of DERAD and the social support service.
\textsuperscript{187} Ministry of Justice (MoJ), Strafvollzug in Österreich, Vienna 2013, p.24.
\textsuperscript{189} Ibidem. § 35a JGG, § 173a StPO.
files of those who were convicted later.\footnote{191} The duration of remand for individuals detained in connection to §278b et seq. is in general disproportionally high, relative to the total detainee population, without differentiating between adults, minors and young adults. The reasons for this are twofold: first, the longer time between arrest and the delivery of the first distance sentence and, second, the overall process duration until a final sentence is reached. Against most first instance sentences an appeal is filed.\footnote{192} Also in juvenile justice cases of this nature, the duration ranks between two weeks and almost a year.\footnote{193} In a single case an adult was kept in pre-trial detention for a serious terrorist crime committed as a young adult for 16 months.\footnote{194} It is, conversely, important that an individual (penitentiary) plan is elaborated for every detainee right from the beginning of pre-trial detention.\footnote{195} Moreover, the support from DERAD and other organisations must be available already during pre-trial detention.\footnote{196} If this support only started with custodial sentence, there would often remain little time due to the deduction of remand time served from the sentence.\footnote{197}

### 3.7. Diversion

Under certain circumstances, the prosecution may initiate a diversion process prior to indictment, in order to avert a trial. After a formal accusation, the court must consider, whether diversion is provided for by law. In criminal cases of juveniles or young adults the possibility of diversion exists notwithstanding and independently from judicial competence, the maximum penalty, or the severity of the crime committed. This means that every juvenile criminal case is, abstractly, eligible for diversion.\footnote{198} For a diversion to take place, the following requirements must be met: First, there should not be serious guilt. According to settled case law, guilt is to be defined through the penalty range, which already includes considerations of liability and injustice.\footnote{199} For crimes committed by an offender of less than 21 years of age, a custodial sentence of at least five years is considered to involve serious guilt.\footnote{200} In cases like that division is only possible due to exceptional circumstances. Second, the decision must take into account considerations

\footnote{191} File inspection conducted between August-October 2017.  
\footnote{192} Hofinger/Schmidinger: Deradikalisierung im Gefängnis, 2017, p.27 et seq. Interview with a representative of the penitentiary sector within the Ministry of Justice on 8 May 2017.  
\footnote{193} File inspection conducted between August-October 2017.  
\footnote{194} Findings from file inspection carried out in the context of the project. The maximum duration of pre-trial detention until the beginning of the trial is - depending on the reason for detention and the complexity of the case, two years if the person is suspected of an offence that is punishable at least by five years of imprisonment (§ 178 StPO). For juveniles and young adults the maximum is a year if it is necessary due the complexity and scope of the case (§ 35 para.3 JGG).  
\footnote{195} See Chapter Part C, 2.2.  
\footnote{196} Initially, the public prosecution accentuated its concerns that 'investigations should be able to terminate without external influence or disturbance'. In this regard, it made use of its right to regulate the contact to external persons for some detainees, including juvenile suspects in pre-trial detention. This attitude has, however, been discarded and the contact with DERAD is standard nowadays. Hofinger/Schmidinger, Deradikalisierung im Gefängnis, 2017, p. 137, cf. S. 32, 45, 89, 93, 105, 123.  
\footnote{197} Interview with a representative of the penitentiary sector within the Ministry of Justice, conducted on 8 May 2017.  
\footnote{198} Schroll, § 7 JGG in Höpfl, Rz. 6.  
\footnote{199} Supreme Court, record numbers of cases: RS0122090, RS0116021.  
\footnote{200} Supreme Court decisions (OGH) 12 Os 113/12b, 10 October 2012; 12 Os 113/10z, 25 January 2011.
of specific deterrence and prevention. If an additional action by the justice authorities is not deemed necessary to deter the person from committing another crime, diversion must be granted. In contrast to older legal positions, the current law does not provide for a denial of diversion only due to general deterrence. Third, a diversion is not possible if the committed crime results in death.202

It could not be established, how many cases of violent extremist or terrorist crimes were solved through diversion. In one case, which later ended in a conviction, a diversion was reportedly considered. Specific preventive aspects inhibited the diversion. Accordingly,

*the injustice of action and attitude had reached a negative extent, which had to be judged, both, striking and exceptional. Therefore, necessity was given for a conviction, to foster understanding about the severity of [his/her] unjust action*. 203

3.8. Penalties

Deprivation of liberty, although indicated and justifiable under certain circumstances, should only be imposed as a matter of last resort to which no equally effective alternative exists. The increasing demand for more public safety and stricter control can starkly impair the development and application of alternatives to detention. This can be in specific cases counter-productive, because detainees are particularly often prone to further radicalisation.204 Moreover, if at all sentenced to custody, juvenile offenders do not stay in prison forever. Therefore, it is in the interest of the broader public to promote penalties that prepare and facilitate the resocialisation into society.206 In practice, the sentenced penalties for terrorism and violent extremism vary considerably, from entirely conditional custodial sentence or partly conditional sentences with low unconditional parts up to long unconditional custodial sentences of three to 12 years.206 The following presents the specific penal possibilities in more detail:

*(Partly) conditional sentence*

Instead of unconditional detention, a custodial sentence may be suspended, partly or entirely, on probation. This is commonly practiced, especially with very young offenders. The legislator has instituted this special treatment by setting more lenient conditions of suspension for juvenile convicts. According to the law, a juvenile sentence can be partly suspended on probation, regardless of the punitive sentence (i.e. years). This can even

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201 Schroll, § 7 JGG, Rz.17.

202 Ibidem, Rz. 18.

203 File inspection conducted between August-October 2017.


206 Hofinger / Schmidinger: Deradikalisierung im Gefängnis, 2017, p. 27; File inspection conducted between August-October 2017.
apply to the maximum sentence of 15 years. Relevant are the nature of the offence committed, the convict’s guilt, and any exceptional circumstances which may render indications either for or against probation. In case of a partly-conditional sentence, the unconditional part must not exceed a third of the total punitive sentence.

A (partly) conditional sentence can help to avert or, at least, shorten detention, mostly with the obligation to attend probationary sessions and fulfil certain instructions. (Partly) conditional sentence is considered in particular regard of the significant advert effects of detention on juveniles, and especially, for first-time offences. That is, if the severity of the committed crime and the level of radicalization do not seemingly necessitate an unconditional sentence to inhibit instant recidivism. In some cases, the (partly) conditional sentence could not be put into action due to considerable general-preventive concerns in conjunction with a lack of exceptional, mitigating circumstances. In concrete cases, it was denied because,

*according to special-preventive aspects of the case, no positive prognosis can be expected to presage that – in case of a partly or entirely suspended sentence – no further recidivism would occur.*

or

*hallyn criminal energies conflict with the special-preventive aspects, which would necessitate high probability of future impunity, limited only by exceptional instances of conflict or crisis.*

The probation service following (partly-) suspended custodial sentence aims to counteract radicalisation and proneness to violence in a way that helps to contain recidivism without detention. The paramount objective is reintegration into society. The support, specifically, focuses on disengagement and deradicalisation. The success of the prior during probation is decisive as to whether or not the sentence will have to be executed in the future. Neustart follows a rehabilitative strategy, which fosters an independent, positive, non-violent self- and future image in the clients. This significantly contributes to their ability to live in impunity after the probation has ended.

207 Schroll, § 5 JGG, Rz. 48.
208 Ibidem
209 Ibidem, Rz. 51f.
210 File inspection conducted between August-October 2017.
211 Ibidem.
212 Ibidem.
214 §§ 15, 16 JGG.
Custodial sentence

Even with regards to similar cases, inter-case comparisons of the sentences imposed does not seem advisable as each sentence is based on the individual and unique merits of every specific case, and, hence is not intended to serve as comparatives.\textsuperscript{216} Therefore, no such comparison will be conducted. This section will, however, depict some more general and cogent observations: As mentioned above, the sentences for terrorist or violent extremist offences among youth or young adult offenders vary widely, ranging from a few months to several years. The duration of unconditional sentences is, however, consistently high.\textsuperscript{217}

Following the inspection of files, which is not representative, it can be inferred that unconditional custodial sentences were delivered especially, if the convict had fought or trained in Syria. Moreover, particularly high sentences were delivered, where multiple offences occurred or relevant criminal records already exist and an advanced as well as permanent state of radicalisation could be considered as granted.\textsuperscript{218}

3.9. Penitentiary

When no lenient measures apply and detention is, hence, necessary, in detention, too, certain rules apply. The dignity and rights of the convicts, who are deprived of liberty, must always be held high.\textsuperscript{219} Moreover, it should be noted that the punishment in itself is not suited to achieve any change in attitude or behaviour. Rather, the success or failure of such an endeavour depends on the structuring of the time served in prison (compare the particular measures in use: Part C, 2).\textsuperscript{220}

Children must be accommodated in the juvenile penitentiary and should, as far as possible, be placed separate from adult offenders. By contrast, young adults under 21 may be put under the responsibility of a juvenile penitentiary upon their or the responsible institution’s director’s request as well as through the court’s executive order. The executive warden of the respective penitentiary must be consulted.\textsuperscript{221}

On the one hand, the Austrian penitentiary system follows a strategy of normalisation. This means that no group should be treated different than any other, to prevent the emergence of hierarchy systems and, conversely, differences in treatments and experiences.\textsuperscript{222} Ultimately, detention also aims to facilitate reintegration.\textsuperscript{223} On the other hand, there are some very high security precautions in place, especially during the initial phase of detention. New inmates are usually exposed to more intensive surveillance and stricter limitations. The regulations pertinent to excursions are especially strict. These conditions

\textsuperscript{216} Supreme Court decision (OGH) 13 Os 161/82, 17 February 1983.
\textsuperscript{217} File inspection conducted between August-October 2017.
\textsuperscript{218} Ibidem.
\textsuperscript{219} OSCE/ODIHR, Countering Terrorism, Protecting Human Rights, 2007, pp.146 et seq.
\textsuperscript{220} See Kury: (De)Radikalisierung in Haft, 2016, p.8.
\textsuperscript{221} §§ 55 par. 2 and 4 JGG.
\textsuperscript{222} Interview with a representative of the penitentiary sector within the Ministry of Justice, conducted on 8 May 2017.
\textsuperscript{223} Ibidem.
tend to collide with the overall objectives and practices inside the penitentiary and are, simply, impracticable (e.g. that all convicts under §§278b et seq. must be accommodated separately from Muslim inmates). Often, these strict conditions are lowered already with the first instance judgement, to successfully manage a transition into normalization. Further easing, however, finds itself inhibited largely due to increasing safety concerns.

Austria does not have specific penitentiaries, or dedicated tracts for the separate accommodation of extremists. The initial tendency to separate individuals, convicted under §§278b et seq. StGB, from one another has also been discarded. Rather, treatment and accommodation are organized according to risk assessment and the extremist prisoner’s position within the organization he or she participated in. Thus, the person will be accommodated in company, unless isolation or dispersal accommodation is deemed necessary; for example, if the person is assessed to be extremely dangerous or the common accommodation of two individuals is not considered reasonable (e.g. due to complicity, etc.).

Solitary confinement can, under any circumstances, only constitute the measure of last resort.

In one concrete case, a young inmate of approximately 20 years of age, had been described as a ‘true fanatic’ by a supervisor. He missionized to such an extent that the only solution was to use solitary confinement.

This and similar cases are exceptions and especially so with respect to children and young adults. In the great majority of cases, accommodation with other detainees proves unproblematic.

**Conditional release**

A conditional release from a custodial sentence is possible after the first half of the sentence has past and probation has been ordered and approved. If it is reasonable to expect no further criminal action in absence of further detention, a person can be released conditionally under guidance of probation support. With severe crimes, it may take two thirds of the sentence to be served before a conditional release can be offered.

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225 Ibidem, p.87.
229 UN General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment: note by the Secretary-General, July 28, 2008, A/63/175, retrieved from: http://www.refworld.org/docid/48db99e82.html (8 November 2017): “In the opinion of the Special Rapporteur, the use of solitary confinement should be kept to a minimum, used in very exceptional cases, for as short a time as possible, and only as a last resort.”
231 Interview with the executive director of the detention centre in Gerasdorf on 9 August 2017.
232 § 46 par.1 StGB.
233 § 46 par.2 StGB.
Moreover, the conditional release after 50% of the sentenced time has for example not be granted to recidivists. In practice, all children and young adults, convicted under §§ 278b et seq. StGB, have been conditionally released into probation at some point. While, generally, they are not released until two thirds of their sentence has been served, a 50% solution would be possible, where the receiving social circumstances allow for it.

Latest six months before the release, the probation support service provider (Neustart) must be informed by the penitentiary administration. “In all cases Neustart supports an early, conditional release;” only in this way can transition be made smooth. Remarkably, a fully served sentence would mean that the detainees would be freed without any probationary requirements from one day to the next. The lack of supervision and support for the resocialization are obvious disadvantages of such a scenario. Therefore, much work flows into the development and endorsement of timely perspectives for the time after the release. Usually, this pursuit involves a release-SoNeKo, during which the clients together with their social network and support staff compound a future plan, the content of which will then form an integral part of the individual’s probation and release requirements as ordered by the court.

This particular strategy has been made obligatory for convicts of §§ 278b et seq. StGB by ministerial decree as of 3 February 2016. Generally, according to the JGG, the conduct of a SoNeKo is merely optional. The legal obligation shows the legislator’s apparent increased commitment to rehabilitative strategies within the penitentiary system, mainly if it comes to these specific offences. In a sense, this indicates a renunciation from the rather repressive penitentiary politics which were dominant until recently.

234 File inspection conducted between August-October 2017.
235 Interview with a representative of the penitentiary sector within the Ministry of Justice on 8 May 2017.
236 Ibidem.
237 §46 StGB, §§17, 17a JGG.
Part C: Main Actors and Policies in the field of extremism & terrorism

After having provided relevant laws, legal aspects of the procedure and specifics regarding children and young adults, this chapter reflects the policy responses to extremist developments in view of legal standards and the main actors working in this field. In recent years, Austria has put in place various measures and initiatives, and starting processes to counter terrorist and extremist developments. Political interventions have largely focused on two specific areas: de-radicalization and preventive action. They are fundamentally different in purpose. The prior concerns disengagement of radicalised youths, which aims at achieving behavioural change and consequential renunciation from practicing and endorsing violence. This policy predominantly targets children and young adults, who have been in conflict with the law already. Examples are children and young adults who were hindered from leaving Austria for Syria to participate in combat, as well as those who returned to Austria after having fought in Syria or Iraq and those who, having approached the extremist milieu via friends or imams, have been radicalised and promote jihad. The latter frequently disseminate propaganda material to radicalise others through the internet or otherwise.

Beyond that, much attention and political action is directed towards preventive approaches. Countless actors - from the public safety sector, the justice- and education systems, and civil society groups – come together under the umbrella of preventive action to pursue a macro-social solution based on democracy and the rule of law. Emancipatory efforts are paramount in most preventive activities, in that they try to sustain and foster children’s and young adults’ self-confidence and competences. This is thought to make children and young adults less susceptible to radical or extremist influences.

In the context of this report we shall focus on extremism-preventive and deradicalisation measures available to the penitentiary system. Before engaging in a deeper analysis thereof, it seems indicated to briefly explain well-established instruments of juvenile justice practice, as e.g. social network conferences (SoNeKo). There are two kinds of SoNeKos, one regarding pre-trial detention and one regarding release. The application of the latter is obligatory for cases involving children or young adults, sentenced according §§278b et seq. StGB, but not for adult offenders. More detailed information on SoNeKo, which we identify as one of Austria’s good practice examples in this paper, can be found in Part C, 4.

Between 2014 and 2016, the number of convictions concerning terrorist activities significantly rose. Simultaneously, the total number of children and young adults incarcerated for infringements of §§278b et seq. StGB rose from two to approximately 20 to 30 individuals. Due to these developments, new strategies had to be found to

238 §35 Youth Court Act (Jugendgerichtsgesetz, JGG).
239 §17a JGG.
specifically target this group of detainees. Moreover, international studies\textsuperscript{240} at the time already suggested that prisons might become a fertile ground for radicalization, induced by fighters who had returned from Syria and Iraq. One proponent of this theory is Peter Neumann.\textsuperscript{241} Consequentially, a range of measures, accommodating specific juvenile justice stipulations, was introduced in 2014. We shall depict them briefly.

1. Central actors in the areas of deradicalisation and prevention

1.1. DERAD

The association DERAD, with the independent network ‘EUISA’, holds membership with the European Commission’s ‘Radicalisation Awareness Network’. In accordance with its cooperation agreement with the federal Ministry of Justice, it is responsible for the area of ‘extremism prevention’ in Austria’s penitentiaries. Its goal is to inhibit or minimize political and violence-prone extremism with a special focus on religiously funded extremism. Apart from support in penitentiaries – having worked with 71 individuals, between 14 and 50 years, in 16 penitentiaries throughout Austria in 2016 –, DERAD conducts prevention workshops for youths and frequently trainings for e.g. teachers, police officers, and judicial employees.\textsuperscript{242}

1.2. NEUSTART – Probation services

The ‘Neustart’ association\textsuperscript{243}, Austria’s sole provider of probationary support, has worked in the areas of deradicalisation and disengagement as well as prevention since 2015. Forty specialists have undergone a specifically developed training program thereto, comprising three modules. The first model focuses on “Islamism and religious backgrounds” and is conducted in close cooperation with DERAD. The second module covers, in collaboration with the Darmstadt Institute for Psychology and Risk Management, topics like “early detection, risk management, and attackers’ psychodynamics”. The third and last module is intended to give an understanding of the geo-political background and developments. All juvenile detainees under §§278b et seq. StGB enjoy the vigorous support of these professionals on probation or if they are granted parole.

A first objective of social work, and especially so with probation-related services, is the client’s disengagement from violent or – more generally – criminal activities. Relatedly, it is of vital importance to the long-term efficacy of disengagement that a client also dissociates from his or her predominant extremist ideologies, at least to an extent that allows for reflection and adoption of non-violent alternatives to past behavioural patterns (i.e. deradicalisation). In this regard, the collaboration with DERAD on issues of Islamic

\textsuperscript{240} See Schmid, Radicalisation, De-Radicalisation, Counter-Radicalisation, 2013, p. 33.
\textsuperscript{241} Neumann: Der Terror ist unter uns, 2017, p. 229.
\textsuperscript{242} See www.derad.at (5 September 2017).
\textsuperscript{243} See www.neustart.at (5 September 2017).
theology is a crucial resource. Their knowledge about radical ideologies enables them to foster critical and reflective thought processes through familiarising their clients with counter-narratives based on Islam.244 This strategy is especially promising, when working with children and young adults, who command little consolidated knowledge about religion.

NEUSTART’s work is always individually centered and reflects individual needs and biographical backgrounds of their clients. Social networks play a vital role in this. In addition to more ‘traditional’, rehabilitation strategies of probation support, like inclusion, crisis intervention, and ensuring a decent livelihood, the following aspects have proven rather important in the work with this specific group of young offenders:

- Frequent and continuous monitoring: Behavioural analysis, risk evaluation and threat management
- Promoting reflection towards personal awareness of injustice regarding the offence committed
- Integration of the client’s positive personal environment, and assistance by relatives and/ or friends
- Intervention talks with Islam experts
- Illustration and revision of intercultural cleavages

Probation usually runs for three years, during each of which a minimum of 25 interactions with the probation specialists are scheduled.245 The spectrum of children and young adults to receive probation support in the context of terrorism is rather broad. To exemplify, cases may include girls, who fall in love on the internet and decide to go to Syria to be with their crush, boys who pose as heroes in videos, wearing uniform and holding automatic rifles, and actual foreign fighter who have partaken in the Syrian civil war. What all of these probation cases share, despite their enormous differences, is the objective to reintegrate these individuals into society as peaceful and harmless citizens.246 Among all the 10,870 beneficiaries of Neustart’s probation counselling in July 2017, 50 individuals were convicts of §§278b-f StGB (numbers including adult offenders).247 A majority of this subgroup of clients is aged between 17 and 30 with women accounting for roughly 20-25%. This is a remarkable male-female ratio, compared to the total of all clients in probation service, a mere 13% of which are women.248 Apart from that, it is striking that the number of clients convicted under the VerbotsG was even higher (56 including adults).249 However, as is common legal practice in Austria, none of the latter individuals had to serve unconditional detention. In order to maintain its operations at level with the most recent advancements in the field of deradicalisation and preventive action, Neustart is a regular attendant to meetings of the European Commission’s Radicalization Awareness Network.250

244 Glaeser, Radikalisierungsprävention durch die Bewährungshilfe, 2016, p. 4.
245 Ibidem.
246 Interview with a representative of Neustart 5 July 2017.
248 Interview with a representative of Neustart on 5 July 2017.
250 See ec.europa.eu (12 September 2017).
1.3. Counselling Centre ‘Extremism’

Initiated in 2014 by the Federal Ministry for Family and Youth, the Advisory Centre ‘Extremism’ forms part of the nationwide network for open youth care (BOJA). Its services are intended for parents, friends, teachers, youth counsellors, and all others, in cases of suspected radicalization of youths towards politically or religiously motivated extremism (including all forms of left-, right-, or Islamist extremism). The services provided include the operation of a telephone hotline which is free of charge, as well as personal advisory sessions and trainings for different occupational groups. The centre has received a total of approximately 1800 calls between 2014 and the end of 2016, roughly a thousand of which were first-time calls. 92 substantial advisory sessions took place and 240 workshops reaching a total of roughly 5000 participants. In the time since its initiation, the nature of the calls received by the centre has changed: Calls concerning suspected right-wing extremism have doubled in number, shifting from two to an almost equally marginal four percent. The number of cases regarding youths drifting into Islamist extremism has declined slightly. According to the centre’s director, Verena Fabris, there are “hardly any youngsters aspiring to join the Islamic State anymore”. Nevertheless, this category continues to account for the biggest share of calls received, amounting to 42% of the total. The second biggest share concerns acts of violence (8%), racism and misanthropy (4%), and ‘other’ forms of extremism (4%). The remaining percent of callers sought further information or network-connections.

2. Measures of deradicalisation and prevention in the penitentiary system

In 2015 the interdisciplinary and inter-ministerial task force ‘deradicalisation in the penitentiary system’ was formed by the Ministry of Justice and has been meeting continuously since then to exchange experiences and develop new strategies. As a result, it presented a “packet” of measures for deradicalisation in the penitentiary system which focusses on tackling safety-, support-, education-, and training issues through policies specifically tailored to the needs of children and young adults. We shall now introduce the corner stones of these policies.

251 See www.beratungsstelleextremismus.at.
252 Helpline: +43 (0) 800 2020 44.
2.1. Safety

Accommodation and implementation

Most of the (male) children, and young adults handled in juvenile penitentiary,257 are transferred to the only Austrian detention centre reserved for juvenile convicts only, located in Gerasdorf. Specific stipulations on the treatment of individuals convicted under §§ 278b et seq. StGB are applicable. Firstly, these may concern issues of accommodation (occasionally, offenders are kept in solitary confinement) as well as the special security-implications during transports to e.g., the court or hospital. According to the warden of Gerasdorf detention centre, the great majority of children and young adults dwell in rooms of two or three.258 A representative of the ministry of justice notes that, in Austria, the principle of “normalization” is paramount. This means, the system aims at equalizing the circumstances of all detainees, notwithstanding differences in offences. Differentiation should be triggered in connection to the detainees’ individual needs and different conditions only.259

Liaison service between penitentiaries and the Office for the Protection of the Constitution and Counter-Terrorism

A permanent liaison service between the penitentiaries and the responsible provincial departments of the Office for the Protection of the Constitution and Counter-Terrorism ensures effective communication and risk assessments. In every prison there are two guards, who are specifically trained in respect to radicalization. They serve as interface-partners to the provincial offices’ terrorism experts.

2.2. Support

From pre-trial detention onwards, an inter-disciplinary team compounds individual penitentiary implementation plans for all children and young adults concerned. The pertinent guidelines hereto foresee, among other measures:

Intensive Support by an expert team

The commanding officers of the respective prison section, a psychologist, a social worker, and a social pedagogue form part of the expert team. It meets once a month where juveniles and young adults are concerned and once every quarter where adults are concerned. The meeting’s aim is to evaluate the progress made on the implementation of the penitentiary plans and to adapt or amend practices that are deemed beneficial.

257 This may be requested by young adults and bestowed upon them by the responsible court.

258 Austria has only one penitentiary centre, reserved for young offenders. It is located in Gerasdorf. All male youths (up to 16 years) and – where stipulated by courts – some young adults (up to 21 years) convicted and sentenced to serve a custodial sentence are being accommodated here. Interview with the executive director of a penitentiary institution, conducted on 9 August 2017.

259 Interview with a representative of the penitentiary sector within the Ministry of Justice on 8 May 2017.
The panel may also be joined by other relevant professionals, such as psychiatrists or Neustart probation officers (in case the individual is already receiving probation support) whenever opportune.

**Intervention sessions for risk assessment and ideological disassociation – by DERAD**

In terms of support for individuals convicted under §§ 278b et seq. StGB, it is essential that officials from DERAD conduct not only the obligatory clarification and screening talk, but that they are available for follow-up attention whenever a children or young adult needs it. The first talk always serves to determine the extent of manifest radicalization. In the long term, intervention sessions serve to introduce alternative- and specifically counter-narratives for the detainees. Optimally, this should trigger a critical reflection process of the violent beliefs pertinent to their ideology. The alternative narratives used are associated with positive examples to replace the narratives of exclusion and animosity dominant in radical thought. Counter-narratives are confrontational and destructive towards the ideology, which they help to unmask. Furthermore, there are conversation classes in political education based on democratic values for, both, radicalised individuals and potential sympathizers.

The support progress in pre-trial and ordinary custody forms the content of the monthly or quarterly expert team meetings. The developments are recorded in the penitentiary plan and, where necessary, the plan can be amended to accommodate appropriate additional measures.

**2.3. Other measures**

**Screenings: risk assessment in the penitentiary**

The “packet of measures” also provides for screenings, or risk assessments, using the DyRiAS instrument (Dynamic Risk Analysis) with individuals surmised to have been radicalised while in prison. Due to the rise to importance of violent Islamist extremism, the long- and well-established tool in the violence context, DyRiAS had been adapted and extended to entail a tool to screen violent Islamist tendencies too. It is now available to penitentiaries, public Authorities, educational institutions, and others. In cooperation with the Institute for Psychology and Threat Management Darmstadt (IPBm, Germany), social workers from the Austrian Ministry of Justice underwent a training, which enables them to conduct these screenings as required. According to a representative of the penitentiary

260 Netzwerk sozialer Zusammenhalt, Extremismus-Prävention, Dialog und Demokratie [Network for social cohesion, extremism-prevention, dialogue and democracy].


262 Applies to all detainees (adults, young adults, and youths).

system’s directorate general, close attention is paid to behavioural patterns of young detainees, which might portend a shift towards radicalization. Conversely, evaluating the risk emanating from every convict under §§ 278b et seq. StGB by default at the start of their detention has not been considered. Rather, the specialists focus on facilitating a proactive counteraction to any radicalization tendencies that may arise in the course of custodial arrest.

Austria, Belgium, Sweden, the Netherlands and Germany form part of the European Union financed project “DARE”, with the aim to evaluate the screening instrument “VERA 2”. In the context of this project one or two psychologists will take part in trainings which enable them to test it in Austria.

**Political education and anti-violence trainings in penitentiaries**

In collaboration with the Berlin Violence Prevention Network (VPN), 15 social workers and psychologists from the Austrian penitentiary system (2016/2017) took part in courses, especially designed to convey knowledge on how to conduct anti-violence trainings with radicalised jihadi detainees. Following their upskilling, they now use their newly acquired expertise in group and one-by-one settings. This forms the first phase of application, the evaluation of which will be compiled by the end of 2017. Currently, the penitentiary centre in St. Pölten hosts a training group of children and young adults who meet weekly. At Hirtenberg penitentiary, inmates are regularly encouraged to engage in discussions about value orientation in Austria, ideologisation, etc. As a second step, insights from these pilot projects will be disseminated among professionals in the penitentiary system.

**Transition management and follow-up support**

As soon as the release process starts to be prepared (i.e. at least six months prior to the end of sentence), Neustart – the Austrian probation support organization – is called in. This timely procedure is in place to ensure a swift and seamless preparation of release as well as successfully managing the transition into life outside of prison. These measures are only obligatory for children and young adults, convicted in relation to §§ 278b et seq. StGB. Otherwise, as in adult criminal cases related to §§ 278b et seq. StGB, it is the responsible court’s discretion in whether or not to mandate a release conference in case of conditional release. Plans for a crime-free life after prison are drafted with and for the children or young adult in cooperation with the penitentiary sector’s experts.

264 Interview with a representative of the penitentiary sector within the Ministry of Justice on 8 May 2017.
265 This notion of deradicalisation is particularly innovative in that it combines political education, anti-violence training, with critical reflection of, both, the offense committed and the justification-patterns used to construct the motive. The creation of communication-, relation-, and problem-solving resources is indispensable for any successful (re-)integration into society and lies at the beginning of any self-responsible and positive plans towards a non-violent future. In Germany, the Violence Prevention Network is the sole provider of in-penitentiary deradicalisation trainings for ideologically motivated violent offenders. More on the programme can be found here: http://www.violence-prevention-network.de (15 September 2017).
266 From the Interview with a representative of the penitentiary sector within the Ministry of Justice on 8 May 2017.
2.4. Training and Recruitment of staff in the penitentiary system

Training

Since 2015, the Office for the Protection of the Constitution and Counter-Terrorism, its provincial bureaus, and DERAD’s Islam-experts have held trainings to raise awareness and presentations on the topic “Radicalisation and Terrorism” under the umbrella of training and further education events. An especially designed module on “handling radicalised and extremist detainees with a propensity to violence” was integrated into the basic training program for penitentiary officials.

Recruiting Personnel

The Ministry of Justice guidelines suggest, furthermore, that an increased attention to language skills and awareness for cultural and religious diversity is envisioned during the recruitment process. The idea is to ensure diversity among the officials employed in the penitentiary system by drawing from a broader pool of ethno-cultural backgrounds reflecting the increasingly diverse ethno-cultural backgrounds of detainees.\(^\text{267}\) The managing director and warden of Gerasdorf detention centre emphasizes this point and calls for more employees (i.e. guards, psychologists, social workers, etc.) with migratory backgrounds and intercultural competences in penitentiaries.\(^\text{268}\)

2.5. Networking and Cooperation

National: The Ministry of Justice convenes a conference of prison directors twice a year, where the topics of radicalization and extremism can be discussed. There are continuously contact persons of the Ministry of Justice available who can be approached by the penitentiaries on those topics, e.g. concerning security or support. In addition, regular meetings of the nationwide network on de-radicalization and prevention of extremism take place on the initiative of the Ministry of the Interior and the Federal Office for the Protection of the Constitution and Counter-Terrorism. A representative of the Ministry of Justice- but no prison directors- take part in them. The network consists of ministerial representatives, authorities of the federal states and associations and institutions that are active in this field. Furthermore, enhanced exchange of experiences with radicalized and extremist detainees among penitentiary directors is planned for by the Ministry of Justice within the framework of regional, i.e. state-wide, networking meetings. Those do already take place in some federal states, e.g. in Vorarlberg, Vienna and Lower Austria. Several representatives of penitentiaries in those federal states will also be integrated. Additionally, a strengthened institutionalized cooperation of these authorities with DERAD, the Ministry of the Interior (Office for the Protection of the Constitution and Counter-Terrorism), and the Ministry for Family and Youth has emerged from the work done in the inter-ministerial support group to the “counselling centre against extremism”.


\(^268\) Interview with the executive director of a penitentiary institution on 9 August 2017.
Moreover, Austria counts on the expansion of European and International cooperation. The collaboration with the European Commission’s Radicalization Awareness Network (RAN) is notable, part of which is formed by the regional working group “RAN Austria”, established in 2015. This Austrian network is being advised by scholars from Vienna University. The initiative’s objectives can be summarized as follows: networking and integration of a variety of civic-societal actors regarding deradicalisation and prevention.269

Austria is, furthermore, a member of the experts group ‘Radicalization’ of Promoting Professional Prison Practice (EuroPris)270 and cooperates with the International Correction and Prisons Association (ICPA)271 in its sub-committee on counter radicalization.

3. Initiatives in the area of deradicalisation and prevention

3.1. Vienna network for deradicalisation and prevention

The Vienna network for deradicalisation and prevention came into being in 2014, when the city administration decided to register the new network with the office of the ombudsman for children and young people.272 To provide this new collaboration of various practitioners and actors, as well as the city administration itself with information and expertise, a forum of distinguished experts has been institutionalised. The network’s objective is to protect children, and young adults from extremist tendencies, but also from stigmatization and general suspicions thereof (e.g. in the case of migrant populations).273 This is pursued on five distinct levels:

- School (Guidelines of deradicalisation, strengthening the role of educational psychology, anti-violence trainings)
- Integration (trainings and workshops for all actors involved, networking platforms for the Afghan and Chechen communities)
- Other educational institutions (workshops and trainings for practitioners of open youth care as well as nursery school teachers)
- International institutions (Funding of scientific research and civil-societal engagement campaigns)

269 Verfassungsschutzbericht 2016, p. 74.
272 Parts of the Vienna network: five delegates to the Viennese provincial legislative and municipal assemblies, Vienna’s children’s and youth advocacy board, the city school inspector general and municipal administrative units 10, 11, 13 and 17, the police forces, work market services (Vienna youth department), the Vienna employees support fund (WAFF), the advisory office ‘extremism’, Family court assistance, and DERAD. The network is registered with the youth advocacy board.
• Working with returned foreign fighters (continuing education for officials from the justice department, police, family and juvenile court assistance, Psychiatry, etc.)

Awareness raising, and continuing training are the programme’s cornerstones. The workshops and trainings on various subjects, including topics like religion, Salafism, jihadism, identities, migratory society, bullying, violence prevention of right-wing extremism, gender equality, etc. were able to reach more than 6000 participants from diverse backgrounds, who work with children and youths.

3.2. The Nationwide Network for Counter-Terrorism – Exit Program

The new nationwide network for extremism prevention and deradicalisation was first presented at the prevention summit, hosted by the federal Ministry of the Interior in October 2017. As recent years have shown, prevention policies and initiatives targeting the entire society are most likely to yield positive results, where all important societal actors – governmental and non-governmental – relate to each other through an integrated network. Therefore, and upon suggestion from the BVT, this nationwide network was established to facilitate the exchange and dissemination of information on recent developments and to enhance the coordination of measures between the local, provincial, and national levels.

One of its paramount initiatives is the exit-program for violent extremists, which has only recently been launched as a pilot project for one year. For the time being, the program targets religiously motivated extremists and jihadist, who have either returned from fighting in Syria or Iraq, or who have been stopped from leaving the country for the same destinations with similar intentions. Moreover, it covers all individuals who were found guilty of disseminating propaganda materials within Austria, who invoked others to participate in jihad, or recruited new fighters or other members for terrorist organizations. The one-year test phase will therefore entail a special focus towards young offenders in the context of Islamist motivated crimes. It is however planned that, upon successful completion of the first year, the program be expanded to include all forms of extremist ideologies, such as right- or left-wing extremism, sectarianism, radicalised and potentially violent fan-groups (hooligans), and so forth.

How does the exit-program work?

The concept is based on individualized single-case strategy. Hence, radicalised individuals can choose voluntarily to participate in the program to benefit from comprehensive interventions and support on various levels:

• Social: establishing a pro-social setting with family and friends.
• Personal: psychological counselling and other therapeutic support upon request and necessity

274 The network will consist of seven federal ministries and several NGOs, see http://orf.at/stories/2401710/ (2 August 2017).
275 In particular with regard to §§ 278b et seq. StGB.
• Delinquency: Revision and reflection of crimes committed
• Ideology: deconstruction of violence-prone religious ideologies and provision of alternatives
• Health: e.g. drug therapy
• Perspectives: Support with education and vocational training, with finding work or accommodation, and legal support regarding residence permit and status

Because the exit-program is part of a nationwide network, a multitude of resources can be accessed by the member-organizations and put to use for the beneficiary in an unbureaucratic manner, be it regarding cheap accommodation, finding a job, or a profound assessment of Islamic theology.

The daily operations of the program are the responsibility of three civil-societal actors, which have already been introduced more thoroughly above:

• DERAD
• NEUSTART
• Counselling Centre ‘Extremism'

These three organizations command extensive expertise, collected over many years, and are well-connected with the authorities through frequent and close cooperation. For the pilot phase, the three lead organizations have collectively selected approximately ten individuals to enter the exit-program. At the time being, the program is only available in Vienna. Following the evaluation of the pilot project, the program is expected to expand to accommodate more participants in all nine Austrian provinces. As of now, the project is being coordinated by the Ministry of the Interior and funded by various actors on the federal and provincial levels, which is meant to facilitate inter-governmental and inter-provincial collaboration, desirably strong enough to continue beyond the first year.

3.3. Initiatives on Education for Prevention

In reaction to the radicalization tendencies in recent years, the federal Ministry of Education has made funding available for a total of 1600 workshops in schools in Austria since 2015. These workshops are carried out by roughly 40 different organizations throughout Austria, coordinated by Zentrum Polis – Politik lernen in der Schule.276 The workshops' themes are “Against radicalization and exclusion” and “Strengthening democratic culture and digital courage”. Their objective is to foster respect, conflict resilience, and debate culture in the class. Moreover, they breach the issues of extremism and fanaticism, and help to counter ideologies of inequality and exclusion. Phenomena like hate speech on the internet are thematised and met with the design of countervailing measures.277

277 A portfolio and list of member organizations can be accessed here: http://www.politik-lernen.at/site/praxis/workshopreihe2017/wsangebote (accessed on 22 December 2017).
3.4. Mothers’ schools against extremism

Through her organization ‘Mothers without Borders’ the Austrian social scientist Edith Schlaffer has successfully established “Mothers' schools against extremism” in Pakistan, India, Nigeria, Tajikistan, and Indonesia since 2012. Since 2015, there are also mothers’ school programs taking place in Austria, the first 15 (Chechen) absolvents were awarded their degrees in December 2016. Throughout these special courses, mothers are trained to recognize the first signs of radicalization of their children and do so early enough to counteract the developments. In a safe and confiding environment, women from different communities learn to talk about themselves and their family problems, involving their growing children. This is a crucial first step because publicly outing such details is still considered a stark taboo by many of the women. Therefore, many of them find it difficult to openly talk about their children’s radicalization. The spectrum of topics covered throughout the ten meetings range from recognizing early warning signals, to ‘how to react’, to different support possibilities at the mothers’ disposal. What is also highly valued by most of the participants is the exchange and socialising in a group of like-minded women. This is especially important for those mothers who live rather isolated and lack significant points of contact outside their own family ties.

According to Maynat Kurbanova, a Chechen journalist and trainer in Austria’s first mothers’ school, it is mostly young men who run the risk of radicalization by acquainting themselves with the criminal milieu. However, as she added during our interview, “there are also women for whom radicalization provides a possibility to emancipate themselves from their strict families. (…) they commit themselves to god, to whom their parents too have to submit.”

The Austrian Ministry of Justice has expressed an interest to collaborate with these mothers’ schools in an interview. First exploratory conversations in this regard have already taken place. A closer contact and cooperation with mothers, and the families in general, might yield great improvements in connection with release conferences (SoNeKo), as an intact social surrounding may substantially facilitate the reintegration into society.

Due to the high numbers of youth who went from Europa to Syria and Iraq, especially in 2014-2016, as well as subsequent returns, the model of mothers’ schools has received a lot of positive response throughout Europe. This is why similar mothers’ schools projects are now envisioned in Great Britain, Sweden, and Germany. The evaluation of Mothers’ schools’ discourses has shown that, generally, a greater involvement of fathers would be desirable and there are now plans towards the initiation of similar projects for fathers – Fathers’ schools. This way, so the proponents, the pertinent problems could be tackled more holistically in and by the family.

279 Currently, there is one group for Turkish and one for Chechen women. A group for Afghan and Arab women is planned. From the Interview with Maynat Kurbanova, conducted on 16 August 2017.
280 Interview with Maynat Kurbanova on 16 August 2017.
281 From the Interview with a representative of the penitentiary sector within the Ministry of Justice on 8 May 2017.
3.5. Open Youth work – the example of ‘Back Bone 20’

‘Back Bone 20’ is an association which engages in open youth care work,\textsuperscript{282} the activities of which extend all over Vienna’s 20\textsuperscript{th} municipal district and aim at supporting youths and young adults between 12 and 23 years. The street workers of Back Bone 20 offer support to their beneficiaries throughout the public and semi-public spaces of the district (i.e. parks, court yards, shopping malls, etc.). Whenever a youth is arrested, he or she may request the support of the street workers to continue. Over the years, Back Bone’s team has built a solid competence and, today, even provides workshops on Deradicalisation.

The IRKS report\textsuperscript{283} mentions that a young male convict and another adult inmate have received rather intensive support by Back Bone while in prison: “They discuss with the youngsters, ask openly critical questions and, thereby, confront them with their own value-systems”. Additionally, Back Bone’s social workers often continue to be important persons of trust for the children and young adults, even after they have been released from detention.

\textsuperscript{282} The area of open youth care in Austria is quite diverse and many actors aim to support youth and young adults. A brief numeric summary: 623 institutions, thereof 87\% day-care centres und meeting spots, as well as 13\% mobile street-working initiatives. The sector currently employs 2.049 experts. On average, 15\% of all young people aged between 10 and 26 benefit from this provision, for more information see http://www.boja.at/fileadmin/download/Wissen/A4_quer_Boja_Broschu_re_web_es.pdf (15 September 2017)

\textsuperscript{283} Hofinger/Schmidinger: Deradikalisation im Gefängnis. 2017, p. 135.
4. Promising practice examples

4.1. Social Network Conferences (SoNeKos)

Since the 1st of January 2016, the latest amendment of the Juvenile Court Act has been in force, which renders the legal basis for the conduction of social network conferences – an instrument which has been used frequently by Neustart in juvenile justice probation cases since 2014. The SoNeKOs are carried out in two different settings: in the context of pre-trial detention and conditional release.284

SoNeKos follow a structured trajectory: they are attended by the juvenile convict, the responsible probation officer, and persons from the convict’s immediate surroundings, like family-members, friends, and support staff. The convict is subject to strict conditions, like e.g. attendance at school or apprenticeship, participation at necessary therapies, or anger management trainings. These conditions are written down and all parties agree to commit to the resulting plans. A sizeable advantage of SoNeKos is that the affected individual is given a central role in the decision-making process. Under this bottom-up approach the child or young adult can be certain of his/her social network’s support. Moreover, this practice may help to convey a reinstated feeling of social trust in the individual, which by itself eases the alienation, criminal offenders (or suspects) often experience.

After the imposition of pre-trial detention, the responsible court may opt to suspend the unconditional pre-trial detention, provided compliance to the plans, agreed upon in the

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SoNeKo, and in connection with highly frequent probation support sessions. This way, the juveniles can be spared the experience of pre-trial detention and loss of working or education time. It is not only a less severe measure but also involves preventive elements, in the sense that it mitigates frustration and, likewise, because it prevents a possible radicalisation in prison. According to a representative of Neustart, “every youth on remand is one to many”. In his opinion, there is a great need to find alternatives to detention of juveniles, and the SoNeKo is a promising possibility.

Approaching a conditional release, at least six months in advance, SoNeKos frequently conduct planning for specific future perspectives, based on a positive self-image. Such a release conference is obligatory in juvenile cases involving convictions under §§ 278b et seq. StGB. Better integration in family and friendship structures, frequent meaningful occupation, and renunciation of the violent and radical connections they had had in the past are all quintessential considerations. A statistical account based on the case-records from 2013 to 2015 shows a positive trend: 85 percent of the offenders granted parole following a SoNeKo did not reengage in delinquency.285

4.2. “Caucasus Group” in youth detention center in Gerasdorf

At this point we want to introduce yet another good-practice example: The so-called ‘Caucasus Group’,286 which is an initiative for Chechen youths at the penitentiary centre Gerasdorf. This project results from concerns that Chechen youngsters, who make up the largest subgroup among the inmates, seem to be disproportionately more susceptible to aggression and radicalization.287 In Gerasdorf there had been constant tensions between Chechen youths and members of other ethnic groups, Afghan youths in particular. Under these circumstances, the penitentiary director sought dialogue with the Chechen exile journalist Maynat Kurbanova. In collaboration with her and an exile politician (and significant authority figure in the Chechen community) Hussein Ishkanov, a two-stage project found its beginning. Its main intention is to trigger critical reflection processes and convey a well-funded understanding of Chechen culture, history, religion, and the life in Austria to the Chechen youth. Strengthening identity and a positive self-image, detached from socially constructed stereotypes, are paramount objectives. Secondly, the project involves an exercise routine, during which the youths can push their physical and mental limits in a healthy way and raise their general level of physical activity. For the inmates, many of which have experience with martial arts, the fitness training offered is something new and, as we were assured, exciting. In total, the participants go through ten modules, which alternate between three hours of discussion group sessions and a sports unit. The discussion groups receive guidance from Maynat Kurbanova, Hussein Ishkanov, and a social worker.

286 This description is based on the interview with Maynat Kurbanova on 16 August 2017, who is the founder of this program.
287 According to an interview with the head of the juvenile detention center, 9th of August 2017.
According to Kurbanova, most of the participants were born in Austria or were brought here as toddlers. Therefore, most of them have little or no knowledge of Chechnya. Often, they fuel myths found e.g. on social media to offset their lack of experiences and then these myths replace historical facts. Some of these acquired narratives involve stereotypical notions, the origins of which can be traced back to the way others may falsely perceive the Chechen community. An example: “Chechens are cool, aggressive and hit hard”. Many youths lack the necessary knowledge to assess and expose these statements actually try to meet these imposed expectations; often marking the beginning of a vicious cycle.

Kurbanova underlined the still noticeable influence of the war experiences of their families. “In fact, it is fair to say that the collective memory of wartimes is the glue within the Chechen community and it is surely what causes great part of the social cohesion among the youths we support. There is not even one participant in our program, whose family has not, in one form or another, had dramatic experiences during the wars. Fathers have been killed, uncles tortured, and houses burnt to ashes. My priority is to provide them with the necessary awareness to lead a fulfilled and responsible life following their release. For this, the collaboration with the families is key. Sometimes it flourishes, sometimes, alas, it is difficult. Deep down they are but children who look for acceptance and appreciation, who want to go to school and aspire to work a dignified job”.  

Since the Caucasus Group was founded in 2015, four modules, funded by the Ministry of Justice, have taken place. Maynat Kurbanova, moreover, accompanies four recently released youths, who have completed an apprenticeship during their detention and, now, have found their successful integration into the labour market. Repeatedly, other penitentiaries – in Simmering and Josefstadt – have expressed their interest in the project.

Part D:
Administrative Measures

In the aftermath of the terrorist attacks in 2001 in the United States of America, the Federal Office for the Protection of the Constitution and Counter-Terrorism (BVT) was established in 2002. Besides, an organisational unit responsible for the protection of the constitution was created in each federal state at the Police Directorate (LVTs).289 Previously, enhanced threat investigation (such as surveillance, covert investigations, etc.) had been legally consolidated as an extended police competence before transferred to the BVT and LVTs.290

After the terrorist attacks in Europe and the steadily increasing number of people leaving for Syria or Iraq to take part in combat (“Foreign Fighters”), the legislator has reacted to the growing phenomenon of violent extremism in addition to criminal law provisions also in the administrative field. In 2014, a packet of measures (“Anti-Terror Packet”) was agreed on to fight violent extremism. In view of the challenge in Austria with “foreign fighters”, the packet was intended to enable preventive action and to prevent persons from Austria, including children and young adults, from taking part in fights abroad.291

For this purpose, e.g. the confiscation of passports but also the possible loss of citizenship was decided. Accordingly, persons who have voluntarily joined combat operations abroad can be deprived of their citizenship if they do not become stateless.292 In the course of the “2014 Anti-Terror Packet”, the executive authority also obtained the competence to check at the border whether or not minors leave with the consent of their parents, in case of suspicion that the juvenile aims to get involved in armed combat abroad. Until the case has been resolved, the security authorities can refuse the departure and withhold the travel documents.293

Given the (presumed) emerging threat and possibilities of modern means of communication in the context of international terrorism, the legislator also aimed to provide the basis for measures to pre-empt a threat. Therefore, the authorities were enabled beside the measures for mere reaction with additional competencies in the prevention of threats

289 Verfassungsschutzbericht 2002, p. 11.
290 SPG idF BGBl I 2000/85. § 6 Abs.1 PStSG.
291 Parlamentskorrespondenz Nr. 1196 from 10 December 2014. There were also changes in the Chemicals Act. Due to regulation of acquisition of certain chemicals explosive attacks should be prevented. With the anti-terror packet also the Symbols Act was amended (Federal Law prohibiting the use of symbols of the Islamic State and other groups [Symbole-Gesetz] Federal Law Gazette I No. 103/2014). Accordingly, the use, distribution or display of the symbols of the Islamic State, al-Qaeda or other extremist groups is prohibited. A breach constitutes an administrative offense and is punishable by a fine of up to € 10,000, - or imprisonment of up to six weeks. Also prohibited are badges or uniforms of other banned organizations, in particular according to the VerbotsG (Federal Law banning certain badges (Abzeichengesetz; BGBl. No. 84/1980.).
293 Parlamentskorrespondenz Nr. 1196 vom 10.12.2014. § 12a para 1a Grenzkontrollgesetz (Border Control Act, GrekoG).
In the following, the relevant administrative measures will be highlighted in detail.

1. Description of the different types of restrictive measures

1.1 Police state protection

The Police State Protection Act (PStSG) came into force on 1 July 2016. The central term for the present report is “an offence threatening the constitutional order” (“verfassungsgefährdender Angriff”) – in the sense of e.g., § 278c StGB or the National Socialist Prohibition Law. As the provision does not require criminal liability, its measures also apply to persons under 14 years.

First, in order to prevent such offences the PStSG foresees additional competencies in observing groups under certain conditions, i.e. if the group is assumed to carry out criminal activities (e.g. right- or left-wing extremism, Islamist extremism, etc.) that represent a serious danger to public safety. Second, the “preventive protection against offences targeting the constitutional order by a person, if reasonable suspicion of threat exists for such an offence (§ 22 Abs.2 SPG)” is another central provision targeting individuals. According to the wording, the provision intends to prevent a future threat. While by committing a specific punishable offense, thus, no longer the PStSG but the Criminal Code (StGB) apply, the definition of when the scope of a possible future threat begins is more difficult. Abstractly, preventive protection is necessary if the commitment of a concrete offence is likely in the foreseeable future.

Third, the PStSG regulates the protection by enhanced investigative means against threats to the constitutional order based on information about persons. This information must come from certain, specifically named, national or foreign entities. The purpose of this provision is not to prevent future threats, but to deal with situations in which

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294 Bundesgesetz über die Organisation, Aufgaben und Befugnisse des polizeilichen Staatsschutzes (Polizeiliches Staatsschutzgesetz – PStSG; BGBl. I Nr. 5/2016).
295 Explanatory notes to the ministerial draft, 110/ME XXV. GP, p.1.
296 Restricted measures are the measures decided upon and ordered by the executive (or with its close involvement), and subject to limited judicial review. Source: ICCT.
297 In addition, changes were made to the Security Police Act (Sicherheitspolizeigesetz, SPG).
298 § 6 para 2 Z 2-3 PStSG.
299 Comp. § 6 para 2 Z 1-5 PStSG.
300 § 6 para 1 Z.1 PStSG.
301 § 6 para 1 Z.2 PStSG.
303 § 6 Abs. 1 Z.3 PStSG.
persons are suspected of having committed a crime abroad, in particular “returnees”, that corresponds “an offence threatening the constitutional order”. 304

Exemplary the following competencies are provided only for the tasks of the observation of a group or the preemption of a threat by an individual: 305

**Covert investigation**

Accordingly, confidants should obtain information on behalf of the security authority without having to disclose their order. The security authority has to guide and regularly monitor the covert investigator. 306 The prerequisite for this technic is that advanced investigations to prevent threats to the constitutional order are pursued or the constitutional order is preventively protected. 307

The covert investigation is considered by the Constitutional Court (VfGH) to be “particularly invasive”. 308 Accordingly, limits and control are particularly important. This measure should only be applied if the investigation otherwise would be endangered, considerably more difficult or not possible by other means. 309 In addition, the authorization of the Legal Protection Senate (see below) must approve such an investigation. 310 Either a reward can be promised, but also pressure can be exerted to get a person to cooperate. Thus, the assurance of impunity can be offered. 311 Questions remain as to how far a confession obtained by a covert investigation can be used in a later criminal case. 312 Likewise, it is not standardised which means may be used to obtain information. 313

Covert investigations are intrusive investigative measures that require judicial control. 314 As correctly stated by Heißl thereof the person concerned must be informed about the investigative measure. However, this usually only happens when a criminal case has been initiated and the investigative measures have been disclosed. If there is no criminal procedure, the person is not informed, which is why the existing legal protection options appear partially inadequate. 315

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305 § 11 PSiSG.
307 § 11 para 1 PSTSG.
309 § 54 para 3 Satz 1 SPG; § 11 para 1 Z 2 PSTSG.
310 § 14 para 3 PSTSG.
311 Heißl, Polizeiliches Staatsschutzgesetz, p.722.
312 See § 5 StPO. Heißl: Polizeiliches Staatsschutzgesetz, p. 722.
313 Ibidem.
314 Supreme Court decision, VfSlg 19.796/2013.
315 Heißl, Polizeiliches Staatsschutzgesetz, p.723.
Information from passenger transport companies and operators of public telecommunication service providers

Security authorities are authorised, under certain conditions, to obtain information from passenger transport companies (such as contact details, payment information, travel status, number and name of passengers, etc.), as well as information from public telecommunication service providers.\(^{316}\) While traffic data, access data and location data can be collected, the content of communication cannot be obtained by applying the PSTSG; this requires judicial authorisation. But even the collection of e.g., the location data represents a significant interference with the private life of the person concerned. Although the investigation measures are subject to restrictions, legal protection seems inadequate here as well.\(^{317}\)

Legal protection

About legal protection, the PSTSG, like the SPG, relies on the legal protection officer and does not provide for any judicial review before carrying out the investigative measures. In addition to the legal protection officer, there is the legal protection senate consisting of the legal protection officer and two deputies. The legal protection officer is responsible for the special legal protection in connection with the tasks of the security authorities according to the PSTSG and SPG. Not included in this control are cases in which information about a suspected person is transmitted by national or foreign institutions (§ 6 para 1 Z 3 PSTSG). The person concerned does not even need to be informed that such information is available about him/her. In the other cases, the person concerned has to be informed by the legal protection officer if there has been an infringement of his/her rights in retrospect, or, as stated above, by the competent security authorities about the reason, nature, duration and legal basis of the measures taken. The information of the person concerned can be omitted if there are important interests (for example, prevention of crime, protection of the constitutional order).\(^{318}\)

1.2. Measures under the Security Police Act

The Security Police Act provides for the possibility to request a person to appear before the authorities as well as a reporting obligation, if “on the basis of certain facts, in particular because of previous administrative violations according to (...) the Badges Act or Symbols Act it can be assumed that [s/he] will commit an offence jeopardizing the constitutional order (...)”. Thus, the person can be required to appear in person at the police station at a particular time in order to be informed about lawful behaviour. “In particular, the instruction shall address the potential risks of radicalisation as well as its legal consequences and indicate deradicalisation programs.”\(^{319}\) In addition, the person can be required to visit a police station once or at regular intervals within a specified period of not more than six months.\(^{320}\)

\(^{316}\) Heißl, Polizeiliches Staatsschutzgesetz, p. 724.
\(^{317}\) Ibidem, pp. 724 et seq.
\(^{318}\) § 16 paras 1 and 2 PSTSG.
\(^{319}\) § 49d SPG.
\(^{320}\) § 49e SPG.
1.3. Asylum and residence

Persons who legally reside in Austria, as asylum seekers, recognised refugees or third-country nationals, can under certain circumstances, be subject to foreign-law measures if they make themselves liable under the criminal code.\(^{321}\)

**Asylum seekers and refugees**

On the one hand, asylum may be excluded if it is suspected that the person has committed a crime against humanity following international standards or has been convicted of serious crimes and constitutes a threat to public order. On the other hand, the Federal Office for Foreigners and Asylum (BFA) can also deprive the asylum status on the basis of these exclusion or termination grounds. The BFA can initiate a corresponding procedure even if there has not yet been a final conviction. For example, committing specific offences (e.g. if they fall within the competency of the provincial court), the imposition of pre-trial detention, or bringing charges for specific offences is sufficient to initiate a procedure on the deprivation of the asylum status.\(^{322}\) In any case, the relationship between this provision and the principle of the presumption of innocence seems problematic.

In the case of the deprivation of the asylum status, it needs to be decided in an additional step whether the stay can be terminated. This may not be the case if, for factual reasons or due to the non-refoulment principle (risk of elemental human rights violations, such as the real risk of death, torture, etc.), no termination of the residential status can be imposed on the person.\(^{323}\) In such cases, the deprivation of the asylum status means extensive exclusion from the labour market and social benefits. This means that the person concerned will probably be tolerated for a long time in Austria, but without any long-term perspectives. The attempts to reintegrate into the Austrian society are thus particularly challenging, or rather impossible.\(^{324}\)

**Third-country nationals**

Against third-country nationals who are legal residents in Austria, a return decision can be filed if the conditions for residence no longer exist. A ground for refusal is when a foreigner has a “close relationship with an extremist or terrorist group and, in view of its existing structures or developments in its surroundings, extremist or terrorist activities cannot be ruled out.”\(^{325}\) The provision is quite vague, which may lead to problems with legal certainty.\(^{326}\) In addition, an entry ban can be imposed for a maximum of ten years, if a final conviction by a court for unconditional imprisonment of more than three months or (partly) conditional sentence for more than 6 months exists.\(^{327}\)

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321 §7 AsylG, §§52, 53 FPG.

322 §§ 7 para. 2 iVm 27 para 3 Z 1 - 4 AsylG.


325 § 11 para 2 Z 1 iVm para 4 Z 2 Niederlassungs- und Aufenthaltsgesetz (NAG). § 52 Fremdenpolizeigesetz (FPG)

326 See Peyrl/Neugschwendtner/Schmaus: Fremdenrecht, 2015, p. 61.

327 § 53 para 3 Z. 1 and 2 FPG.
It is also possible to issue an indefinite entry ban if there is a final conviction from a court to imprisonment of more than five years. Additionally, where certain facts justify the assumption that the third-country national has been a member of a criminal organisation or a terrorist group, has committed terrorist offences, financed terrorism, or has or was trained for terrorist purposes an indefinite ban can be filed. In these cases, the assumption must be justified only, a conviction by a court is not required. An indefinite entry ban can also be imposed if a crime against peace, a war crime, a crime against humanity or terrorist act is publicly endorsed or promoted.

Summary and Conclusion

The research objective of this report is to give insights in the situation of children and young adults in the juvenile justice system related to violent extremist movements in Austria. In this context the juvenile justice system is broadly defined by including the criminal offence to criminal conviction and from detention to (re-)integration into society. On account of the terrorist attacks across Europe over the past years terms such as extremism and terrorism have been mainly associated with "Islamist extremism". Therefore, it is essential to stress that the presented report deals with different dimensions of the extremist phenomena. Besides religiously motivated extremism, such as Salafism, i.e. Jihadism, aspects of right- and left-wing extremism are also addressed.

Data and Statistics

Right-wing extremism particularly has always played a considerable role in Austria and manifests itself in many forms, such as the current “New Right” with a modern and pop-cultural image used to recruit young people offering a platform to protest. Criminal reports attributed to the right-wing extremist movement (2016: 89 children) have increased over the past years, although no one was sentenced to imprisonment. At the same time, the number of children and young adults convicted under the National Socialist Prohibition Law has slightly decreased (2016: 13). Since the refugee and migrant movements (2014/2015), however, there has been noticeable rise in incitement of hatred and anti-asylum propaganda from right-wing extremist groupings on the internet.

Within the sphere of left-wing extremists, those associated with autonomist-anarchism are the most active. Their protest is directed in particular against fascism and agitations of the “New Right”. Furthermore, they are critical of economic and social conditions and advocate for the cause of refugees and asylum seekers. Most left-wing extremist groups are loosely organised, and their appearances are often only reactionary, i.e. (counter-)protests on occasion of particular events (Federal Presidential Election 2016, annual

328 § 53 para 3 Z. 5, 6, 8 and 9 FPG.
329 See Peyrl/Neugschwendner/Schmaus: Fremdenrecht, 2015, p. 364 et seq.
331 Evaluation of procedural automation of the judiciary (BMJ), response per e-mail on 20.9.2017
Viennese Akademikerball). In 2016 six children were reported by police on the grounds of left-wing extremist crimes - mostly for damage of property. This number of 6 children is significantly lower compared to the right-wing extremist counterparts (89 children).

In regard to the development of Islamist extremism in Austria, such tendencies were presumed to have already surfaced in the 90s during the wars in Bosnia & Herzegovina and Chechenia and the accompanying refugee and migration movements to Austria. A new form of “youth groups” composed of young men of Bosnian and Chechen origin had already developed before the start of the Syrian Civil War. The first conviction emerged in mid-2000, when Mohammed Mahmoud was convicted for the formation and backing of a terrorist organisation and sentenced to four years in prison. Between 2015 and 2016 and after the proclamation of the “Caliphate” of the “Islamic State” the highest conviction rates of children and young adults (2015: 21 and 2016: 27) for terrorist activities was documented. In July 2017 of those convicted a total of 12 male children and young adults were in detention.

Biographies

Upon closer look at the grounds for convictions a very heterogeneous picture of different motives and causes can be discerned. The cases of 18 children and young adults analysed in the framework of this report show how their lives take different biographical courses: “marginalized youths”, “those leaving Austria as fighters and civilians”, “Syrian refugees” “those stopped from leaving”, “those distributing IS propaganda”. Nearly all children and young adults had a noticeably low level of education, i.e. only having completed compulsory education or only having completed an apprenticeship or even dropped out before completion. Moreover, many youths share a common experience of being discriminated and alienated in the course of socialisation, many of whom endured a childhood of conflicts and difficulties. While religion and Islamist ideology played a role for some, others remained uninfluenced. More often than not it was “friends” in radical social environments or imams in mosques, who offered them support and perspectives, which in turn gave them, sometimes for the first time, a feeling of being recognised and taken seriously. At this point, it is important to stress that all biographies run very different courses and only to a certain extent should parallels be drawn and common features generalized.

Criminal Offences

Austrian criminal law does not provide separate offences for children and young adults; thus they are also non-existent in the context of extremism. The same offences are applicable for all, irrespective the age. Differences emerge in the criminal procedure and the sentencing between children/young adults and adults.

332 An event co-organized by the Freedom Party of Austria. (FPÖ)
335 Ten court and criminal records of different Austrian counties with reference to ten biographic interviews retrieved from the report by Aslan, Islamistische Radikalisierung, 2017.
The criminal offences in Austrian law commonly have a responsive character: the National Socialist Prohibition Law after the Second World War; the amendments to the Austrian Criminal Code after the 2001 terror attacks in the USA and following attacks in European cities. Both criminalize specific extremist actions, which range from participation in extremist organisation to propaganda and offences such as murder or coercion with extremist motives. Most of the convictions in connection to religiously motivated extremism are under the offence of "participation in a terrorist organisation" (§278b StGB). This is not surprising as the norm can and has been interpreted widely covering a variety of actions.

**Deprivation of Liberty**

Deprivation of liberty should always be a mean of last resort and more lenient alternatives should be applied if adequate, be it for pre-trial detention or custodial sentence. Also, in the context of extremism, a case-by-case assessment has to be made if pre-trial detention is necessary as there is no obligation based on the nature of the offence to order pre-trial detention. Although the necessity is rebuttable, in numerous cases it is ordered.

Depending on the individual case, there are many forms of penalties in the context of extremism which range from probation to severely long prison sentences. Even if imprisonment is unavoidable in many cases, there needs to be special emphasis on resocialization and preparation for post-detention time. A sentence in itself – at least in the majority of the cases does not lead to a change in behaviour. Concrete measures are of greater importance along with the support that should be provided accordingly, whether it is through assistance during probation or in penitentiary facilities. It is essential to offer an alternative narrative to and perspective outside of radical ideas.

**Relevant actors**

Over the past years three organisations have been established in the field of "Deradicalisation and Prevention of Extremism", which work closely with public institutions, from whom they partially receive financial support. Besides its work in prison centres the association DERAD carries out preventive workshops for youths and trainings for professionals such as teachers, police officers and public employees of the judiciary. Furthermore, the association Neustart, which focuses on probation service, has trained 40 specialists in the field of "Deradicalisation and Prevention", who intensively work with children and young adults convicted of terrorist activities. Starting in 2014, the "Counselling Centre of Extremism" was established by the Ministry for Family and Youth specifically for families, teachers and youth social workers as a point of contact upon suspicion of possible radicalisation of youths. The service includes a helpline free of charge, personal consulting sessions as well as further training for different occupational groups.

**Measures**

In response to the significant increase in the number of children, young adults as well as adults in detention on grounds of terrorist activities since 2014 the Directorate General
for Prison Services (at the BMJ) established a set of measures for the prevention of extremism and deradicalisation in the penal system. This includes initiatives in the area of security, prison care, education and training of prison staff. Children and young adults are intensively supervised and looked after by an expert team composed of division commander, social workers, social pedagogues, psychologists and other professionals. The expert team meets and discusses every month (where juveniles or young adults are concerned) or every quarter (where adults are concerned) to make adaptations to the penitentiary plan if needed. The association DERAD, which specifically focuses on "deradicalisation" related to Islamist ideologies meets obligatory with children and young people regarding matters that need clarification and if necessary also stage regular intervention sessions.

What should especially be noted is the Social Network Conference that is seen as an alternative to pre-trial detention and ordered as a mandatory conference before prison release (min. 6 months before release). The conferences are held with children and young adults and their families, social workers and members of the probation service to map commonly out future perspectives.

A very promising initiative for deradicalisation and prevention in youth detention centres is the "Caucasus group" in Gerasdorf. A former Chechen journalist and a politician in exile are working together with Chechen youths to prevent them from being radicalised in prison and to develop a future perspective after detention.

Furthermore, numerous initiatives for deradicalisation have been developed over the past years, some of which will be mentioned in the following. A National Network against Extremism has recently presented an "Exit Program", which is carried out by the three above mentioned organisations (DERAD, Neustart and Counselling Centre of Extremism). It is aimed at individuals who have already been in conflict with law according to terrorist offences. They will get an intensive supervision on an individualised case-by-case approach. In a year-long pilot phase around 10 people in Vienna convicted or detained on the grounds of terrorist activities, will receive support on various levels. Provided the program has been positively evaluated, an expansion of the project and its availability throughout Austria is planned for all forms of violence prone extremism, including right- and left-wing extremism.

Lastly “Schools for Mothers against Extremism” will be mentioned, as it offers an innovative approach, which considers mothers as an important resource for the cause of deradicalisation and prevention. Mothers are taught on how to notice the first signs of radicalization and how to respond, e.g. how to contact relevant institution for support.

336 Further information at: www.derad.at (5.10.2017)
Conclusion

The topic of “Islamist radicalisation of children and young adults” and the focus on male Muslim youth that goes along with it has experienced a peak in the Austrian media. Thus youths from other backgrounds and those who have been radicalised by right and left-wing movements have to a great extent been neglected by political as well as scholarly discourse. Nevertheless, the current set of data indicates that right-wing extremist criminal offences are particularly on the rise and constantly high. In 2016, altogether 963 police files were reported on the ground of right-wing offences in comparison to left-wing offences amounting to only 83. The proportion of children and young adults in the field of right and left-wing offences is between 7% and 9%.

In 2016, 100 persons have been convicted under the “VerbotsG” with a share of 15% amongst children and young adults. At the same time, 27 children and young adults out of a total number of 48 persons have been convicted due to terrorist activities. This is a ratio of 56%, which is significantly higher compared with 15% convicted under the VerbotsG (National Socialist Prohibition Law). These figures could imply that youth and young adults are disproportionately at risk for Islamist radicalisation and related crimes in comparison to other forms of extremist offences.

In order to find effective approaches to encounter radicalisation of children and young adults in view of Salafism and Jihadism, it is important to cleanse public discourse of ideological concepts and instead to discuss matters objectively. Although certain dynamics in the process of extremist radicalisation (right-wing, left wing or Islamist oriented) are in principle comparable, the personal history behind them never is. Experiences of alienation and discrimination, the lack of stable social connections, dramatic and painful childhood experiences and the feeling of “not belonging” are essential elements that generally lead children and young people to join different forms of extremist groups.

In regard to deradicalisation as well as disengagement of children and young people, including preventive approaches during detention, it is critical to note that these are very complex processes which cannot be analysed without taking properly into account also context-related factors, such as personality structure, socialisation, socio-economic conditions etc.

The measures taken in Austria for deradicalisation and prevention for children and young adults in detention include various approaches. Prison care and support are aimed at normalisation, meaning children and young people convicted of terrorist activities generally receive no specific separate treatment, i.e. in form of solitary confinement or longer periods of “prison time”. For “particularly dangerous” youths special security precautions may be imposed by the Office of the Protection for the Constitution. It has to be taken into consideration that the balance between “security” and “normalization” need to be referred to §§ 278b, c, e, f and 282a StGB. In principle the Criminal Code refers in §§ 278b et seq. for all forms of terrorism apart right-wing extremism that is regulated in the VerbotsG. However, the cases filed in the context of left-wing extremism were not under these regulations but rather for property damage or bodily harm.
respected, especially in the light of human rights standard, such as the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules). These include the chance to meet with fellow detainees, to take part in sport and leisure activities (to be granted fresh air) or to be in contact with the outside world.\textsuperscript{338} Positive examples in that context are the already above-mentioned “Caucasus group”. From the example of the “Caucasus group” it can be shown that the so-called “role-models” from one’s own community are most suitable to work with children and young people, as they possess the language and cultural proximity to these individuals.

Further, in their framework of the Social Network Conference, the opinions and needs of children and young adults are taken seriously and together with care workers and external experts, future plans are crafted and perspectives after their time in prison developed. This participatory approach corresponds to the right “to be heard”\textsuperscript{339} enshrined in the UN Convention on the Rights of the Child and offers the individual involved a substantial chance to actively work on his/her situation.

With all interventions with children and young people in detention and post-detention it is fundamental to build up a trustful relationship, which is characterised by openness and transparency. A positive change in attitude and behaviour can especially be achieved with children and young adults, who have not yet been strongly radicalised and are still looking for alternative life concepts.

In cases involving juvenile refugees, asylum seekers or migrants with residential permits, their opportunity to (re-)integrate into society tends to be especially difficult, as their residential status under certain circumstances can be taken from them if involved in violent extremism. Without a residential status, they may have to return to their country of origin after their release. In cases where a return to the country of origin would involve serious threat to life and bodily integrity, and where repatriation is consequentially prohibited under international law, their continuous presence in Austria is none but formally ‘condoned’; a status under which they lose all entitlements to social benefits they may have held prior to their conviction. In these cases, reintegration and rehabilitation proof to be difficult if not impossible. At the same time, limited perspectives hinder the disengagement and deradicalisation process.

**Human Rights Perspectives**

To conclude it must be asserted that deradicalisation and prevention of extremism is a challenge for society as a whole. This challenge can only be met through synergy of various actors and cooperation on European and international level. In a democratic and pluralistic society individual rights to freedom and equality are of central importance. This stresses the universal and normative aspiration to ensure coexistence based on

\textsuperscript{338} Right to Sport and Leisure Time Activities (Rule 32), Right to Contact with the Wider Community (Rule 59-62), United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules), Resolution of UN General Assembly from 14th December 1990.

respect and human dignity and the peaceful settlement of conflicts of interest. Dealing with diversity and migration challenges societies and the tensions between the rights of individuals and those of groups are inevitable, especially in consideration of different cultural and religious concepts of identification.

Specifically when it comes to safeguarding the rights of children and youths a comprehensive approach which takes into consideration different levels and spheres of life (family, school, education, leisure) is questioned. Here it is important to guarantee social rights, including, e.g. measures, which prevent families from drifting into poverty. Furthermore, the schooling and education system as well as the labour market are challenged with questions on access and equality of opportunity, which should not only be discussed but also met with solutions. School should be a place of self-assured and respectful contact between students and teachers, where diversity and inclusion, conflict management and prevention of violence take place.

The need for action is indisputable. Along with quick and short-term intervention by the police and criminal justice system to counter real threats of terrorism and extremism there is a need to develop parallel long-term measures to avoid rootlessness and lack of perspective on the basis of human rights. To this end clear analysis and political setting of priorities is of utmost importance. This should be led with a comprehensive understanding of human rights and in consideration of the best interest of children and young adults.
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Interview with representative of Neustart on 5 July 2017.


BELGIUM

Directorate General for Legislation, Freedom and Fundamental Rights
Directorate for Criminal Law

Valérie Gengoux
Emilie Deveux
Jessica Failla
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Introduction

In recent years, due to the bloody attacks that have marked Belgium, police, judicial and political developments have focused on the fight against terrorism and radicalism.

As a result, a number of projects, initiatives and regulations have emerged at national level. Various national laws have been passed and different political plans have been drawn up not only at national level but also at the level of the Communities and Regions. In addition, many preventative projects have been implemented by a number of Belgian municipalities. This fight against terrorism involves security and intelligence services such as the Police, the Coordination Unit for Threat Analysis (CUTA) or the State Security and judicial authorities, but it also requires an overall approach involving all the authorities of our country, namely the Federal State, the Communities and the municipalities.

Belgium was one of the first countries in Europe to record departures to Syria. In proportion to its population, Belgium is the European country with the largest number of identified ‘Foreign Terrorist Fighters’ who have left to go to the area between Iraq and Syria. Individuals who are being radicalised in Belgium and who travel to Syria and Iraq to fight for the Islamic State (IS) are very young. The proportion of minors among jihadists or people trying to leave is alarming. Since 2012, 15 individuals have taken the road to the area between Syria and Iraq while they were still minors to join a terrorist group, without being accompanied by a parent. According to a study conducted by CUTA, three categories of minors must be distinguished: unaccompanied minors who reach Syria or Iraq often as combatants; accompanied minors brought by their parents or even born in the area; and minors who are sympathisers of IS in Belgium.

The various initiatives or projects undertaken in Belgium are aimed at terrorism in general and not specifically targeted at ‘juvenile terrorists’. Nevertheless, the fact that some ‘terrorist suspects’ are minors raises a number of questions.

In Belgium, when these minors are arrested, they are regarded as ‘juvenile offenders’ but also as ‘juveniles at risk’. Due to their vulnerability, these children should benefit from special treatment, procedures and measures suited to their needs. In this framework, the Belgian authorities are concerned that children’s rights, as set out in the International Convention on the Rights of the Child (the right to non-discrimination, freedom of thought, conscience and religion, freedom of association, protection in armed conflict, or even the best interests of the child), are respected.

The objective of this report is to provide an overall idea of the initiatives and projects developed in Belgium within the framework of the fight against terrorism, particularly when minors are involved.

First, it will draw up an overview of the situation in order to try to explain why terrorism/radicalism involves so many young Belgians. It will also introduce the various definitions of terrorism, radicalisation and extremism used in Belgium.
Then, the next point will outline the various political initiatives carried out at the federal level as well as at the level of the federate entities. The focus will be on legislative initiatives.

Finally, the article will discuss the preventative approach as well as administrative measures.

1. Counter-terrorism approach and policies (under 18) in Belgium

1A. Sociological background, the roots of terrorism in our country, definition of ‘terrorism’, ‘violent extremism’, ‘counter-terrorism’ used in our country

The general development of the phenomenon in Belgium

‘In the last few years, terrorist threats have become real across the world. The atrocities and the deadly attacks committed by followers of the “Islamic State” (IS) show the severity and scale of the problem.

Islamist extremism, violent radicalisation and terrorism have become, for Belgium too, a problem of unprecedented scope. As in the case of neighbouring countries, and partly under the influence of the international context, Belgium is faced with radicalism and terrorist attacks. We have known for some time that a hotbed of terrorism had emerged in Belgium with individuals and groups sharing and displaying extreme beliefs.

In the 1990s, Al-Qaeda was already active in Belgium and active cells of the Armed Islamic Group (GIA) already existed in our country. In 2004, members of the Moroccan Islamic Combatant Group supported the terrorist attacks in Madrid on 11 March 2004. Sharia4Belgium, created in March 2010 in Antwerp, caused a great stir by adopting extremist views on the role of Islam and inciting anti non-Muslim sentiment.

In 2012, Molenbeek saw the first symbolic protest with a character of religious radicalism, following the arrest of a woman wearing the niqab. A few months later, riots broke out in Borgerhout, while Muslim youths supported by members of Sharia4Belgium protested against an anti-Muslim film. Subsequently, other clashes have occurred on a regular basis.

Developments in the last two years, in the field of terrorism, radicalisation and violent extremism, show that the threat in Europe has changed. The underlying link between Islamist extremism, violent radicalisation and terrorism has been put forward by the security services.

Belgium is now facing a type of terrorism which has taken on a new dimension since the November 2015 attacks in Paris (130 dead and 413 wounded) and the March 2016 attacks at Brussels National Airport and Maelbeek Metro Station (32 dead and 340
wounded). The five perpetrators of the Brussels attacks, as well as six out of the ten perpetrators of those in Paris, have a criminal past and could rely, through their networks, on a whole range of services (logistics, hiding places, false identity documents, explosives precursors, etc).

After the successful police intervention in Verviers (January 15, 2015), it became clear that some of those responsible for the subsequent attacks in Paris and Brussels were known to Belgian police services for ordinary crimes. Furthermore, the investigation showed that the greatest threat came not only from IS fighters who had returned from Syria (the “returnees”, of which 75% are below 25 years old), but also, in a certain number of cases, from people who were living or staying in Belgium and who had not fought in Syria. It is also important to observe that, following the recent events, a wave of negative solidarity took shape in some neighbourhoods, as was the case after the arrest of Salah Abdeslam.

With the arrest of many perpetrators of terrorist offences, the risk of radicalisation in prison is now more real than ever. Some terrorists who have recently appeared in the European Union have entered Europe with flows of migrants.

Today, it seems that the tide is turning for IS: the group is under strong pressure from the military in Syria and Iraq and has suffered strategic losses. The question is what will be the impact of this military setback (i.e. the loss of territorial control on the Caliphate) on IS regarding the agenda on security?

It is feared that the more ground that IS loses, the more likely it is that it will try to demonstrate that it is still capable of perpetrating attacks in Europe. Both IS’s call not to go to the Caliphate at all costs, but rather to carry out independent attacks in the West, as well as the dangers posed by the “returnees”, have had a major impact on the increased risk of terrorist attacks.

Therefore, it is not because IS is under pressure that its strike force resulting from Islamist radicalism, extremism and terrorism will diminish. It might be the contrary. It is acknowledged that the losses suffered by IS and the eventual implosion of the Caliphate will initially lead to a wave of terrorist acts in other parts of the world (including Europe). Historical analysis also shows that, in the past, military successes against terrorist organisations first increased the number of attacks.

Thus, the stagnation in the number of fighters going to Syria will by no means reduce the threat of terrorist attacks. On the contrary, following the return of “very radicalised” Foreign Terrorist Fighters (FTF), there is a risk that, on the one hand, the fighters who did not leave will focus on other ways to carry out their “own jihad” and, on the other hand, that copycats will emerge. This phenomenon may find its explanation in the doctrine adopted by Al-Qaeda after the death of Osama bin Laden in 2011. IS’s call, in early 2015, urging all Muslims to carry out attacks in Europe against “crusaders” will inevitably strengthen this trend. Moreover, available data seem to suggest that the attacks committed by isolated individuals cause many more deaths.
It is impossible to determine at this point if the situation will settle down in the coming years, but reports such as Europol’s annual EU Terrorism Situation and Trend Report (TE-SAT) suggest that the current threat will not ease in the short term. With threats being more complex and international, European and international collaboration is becoming increasingly important and should supplement the federal and local approaches as well as the contribution of federate entities.¹

**Why so many young Belgians?**

Belgium was one of the first countries in Europe to record departures to Syria. In proportion to its population, Belgium is the European country with the largest number of identified ‘Foreign Terrorist Fighters’ who have left for Iraq and Syria.

In general, several explanations have been put forward to understand the reasons which lead these young Belgians to become radicalised and, for some, to go to fight in Syria. Several scientific approaches have focused on the individual trajectory of these young people, in order to try to explain the phenomenon of radicalisation, placing emphasis on their quest for identity, their search for meaning, their loss of references, their socio-economic environment, etc.² These well-known theories will not be referred to in this report.

However, the Belgian situation should be noted. Various elements specific to the Belgian context have also been put forward by experts in order to explain why Belgium is confronted with the phenomenon of radicalisation of a significant number of young people, including the presence and role of Sharia4Belgium and the circumstances of the emergence of Salafism and the Muslim Brotherhood in Belgium³.

**The presence and role of Sharia4Belgium**

Since 2012, Belgium has been an important hotbed of jihadist recruitment. It is generally considered that Sharia4Belgium, a Belgian Salafist jihadist organisation created in 2010, and its active leader, Fouad Belkacem, have played an important role in encouraging a number of young people to go to fight in Syria. In 2012, the first ‘convoy’ of Belgian fighters to make the journey to Syria consisted of Sharia4Belgium members.

In 2015, Antwerp’s Court of First Instance sentenced 45 people of the 46 involved in the ‘Sharia4Belgium’ case. They were accused, among other things, of having directed and  

¹ Parliamentary inquiry tasked with reviewing the circumstances which led to the terrorist attacks of March 22, 2016 in Brussels Airport and Maelbeek Metro Station, in Brussels, including the evolution and the management of the fight against radicalism and the terrorist threat, June 15, 2017, third intermediate report relating to the ‘security architecture’ section, DOC. 54 1752/008, p.64-67. Translator’s note: See bibliography for French original document and subsequent French documents mentioned in the current report.


participated in the activities of a terrorist group, of unlawful deprivation of liberty as part of a terrorist group and of spreading a message inciting to commit a terrorist offence. Prison sentences of up to 15 years were handed down against them. On appeal, the Court upheld the sentences. Sharia4Belgium’s leader, Fouad Belkacem, was sentenced to 12 years in prison and to pay a fine of €30,000 for having founded a terrorist organisation promoting Salafist jihadism. The Court found that he had recruited young people for the armed jihad and that the group was largely responsible for their radicalisation and departure to Syria.

These recruitment hotbeds have obviously been partially dismantled today. Nowadays, it is the Belgian jihadists on the ground who recruit through, amongst other means, social networks. Belgium also has to contend with a recruiting system from person to person, which spreads like wildfire. Candidates for departure know each other and are often from the same family, the same neighbourhood or the same school. The modus operandi is often the same: a young person leaves and once he or she gets there, he or she invites relatives (family members, friends, schoolmates) to join him or her.4

The spread of Salafism and Muslim Brotherhood

Experts also often refer to the emergence of a Salafist Islam in Belgium, supported by Saudi Arabia, as a factor of the radicalisation movement in Belgium.

In 2016, CUTA produced a report on the subject supporting this view: ‘Islam salafiste et prosélytisme religieux – Facteurs et vecteurs de radicalisation et d’extrémisme’5 (Salafist Islam and religious proselytism - factors and vectors of radicalisation and extremism).

Supporters of the Wahhabi/Salafist Islam that spread from Saudi Arabia and the Gulf countries practise a radical version of Islam which may conflict with the fundamental rights and freedom under the Belgian Constitution and the principles of the rule of law. Radical Wahhabism/Salafism leads to isolationism and, under the influence of the most radical sheikhs, to violent Islamism. The Wahhabi/Salafist doctrines have undermined pluralism, tolerance, cosmopolitanism and openness to science and education that had deeply marked Islam for centuries. Therefore, this radical form of Islam has spread at the expense of a moderate Islam in Belgium. In addition, in the 1990s and 2000s, the Muslim Brotherhood became very active in Belgium and contributed to the creation of a strong socio-political mono-religious block.

It must be acknowledged that a growing number of mosques and Islamic centres across Belgium, as elsewhere in Europe, are influenced by the religious machinery of the Wahhabi/Salafist movement. At the same time, we should also note that imams from ‘traditional’ mosques are increasingly ‘being salafised’ or are already ‘salafised’.

Young Belgian Muslims of today have grown up in the wake of these two dominant discourses that have permeated the Belgian Muslim community since the 1990s,

4 DALLEMAGNE G., La Belgique face au radicalisme, comprendre et agir (Belgium in the face of radicalism, understand and take action), Presses universitaires de Louvain, 2016, p.65.
5 CUTA, Islam salafiste et prosélytisme religieux – Facteurs et vecteurs de radicalisation et d’extrémisme (Salafist Islam and religious proselytism - factors and vectors of radicalisation and extremism), Ref. OCAD: 284456 (281078), October 2016.
promoting a unique vision of Islam. This environment is conducive to radicalism and terrorism. In addition, the development of communication technologies further accentuates this phenomenon. ‘Over the last decade, many Wahhabi-inspired satellite channels have emerged. These channels broadcast their programmes from Egypt, Saudi Arabia or the Gulf States, and are funded by sponsorships in the region. In recent years, these channels have been manifestly moving towards a European public. In addition to traditional Wahhabi proselytising TV stations, new TV channels have appeared in recent years, broadcasting an activist, sectarian and even jihadist message. These TV channels continuously focus on the “Sunni” struggle in Syria, Iraq, Yemen or elsewhere, or on the issue of the alleged “Shiite” threat. These satellite channels are becoming increasingly popular and can also be received in Belgium/Europe, especially via live stream available on their respective websites. Believers can also easily view their programmes and preachers via their well-developed social networks channels (Facebook, Twitter, YouTube, etc). In addition to the ongoing demonisation of Iran and of the world’s Shiite community, the programmes on these channels are often aimed at mobilising the believers to engage them physically and materially in the conflicts in Syria, Iraq, Yemen or other parts of the world where it is perceived that the local Muslim population is being oppressed.’

**Definitions used in Belgium**

In Belgium, it is the *Organic Law on the Intelligence and Security Services of 30 November 1998* which provides a first definition of terrorism and of other related notions:

- **Terrorism** (article 8, 1°, b): The use of violence against persons or material interests for ideological or political motives, with the aim of achieving these objectives by means of terror, intimidation or threat, including the process of radicalisation. The Criminal Code also sets out a definition of terrorism in its book II, title I: ‘Shall be deemed to be a terrorist offence an act under §2 and §3 which by its nature or context may cause serious harm to a country or an international organisation and is committed intentionally with the aim of seriously intimidating a population or unduly forcing public authorities or an international organisation to take or refrain from taking certain action or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.’

- **Extremism** (article 8, 1°, c): Racist, xenophobic, anarchist, nationalist, authoritarian or totalitarian conceptions or views, whether of a political, ideological, confessional or philosophical nature, contrary in theory or in practice to the principles of democracy or of human rights, to the good functioning of democratic institutions or other foundations of the rule of law, including the radicalisation process.

- **Radicalisation** (art 3, 15°): Processes affecting an individual or a group of individuals so that this individual or group of individuals becomes mentally prepared or willing to commit terrorist acts.

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8 Examples include: murder, intentional assault and battery, hostage-taking, kidnapping, destruction or mass destruction of certain targets (bridges or buildings), of means of transport (car, boats), of computer systems or even the seizure of aircraft and ships. See point 2.B.
• Counter extremism (internal and unofficial definition): The taking of preventive, repressive, educational or curative initiatives and actions dealing with the causes and factors leading to violent extremism.

1B. The most common forms of terrorism and the profiles of youths suspected or accused of terrorism or violent extremism in our country

When talking about minors and terrorism, a distinction should be made between unaccompanied minors who leave for Syria and Iraq, children who were taken by their parents or were born there (who we refer here as ‘accompanied minors’) and minors supporting Daesh in the Belgian territory. An overview of the situation of Belgian minors was drawn up by CUTA. According to the information available as of August 18, 2017, CUTA estimates that a total of 127 minors linked with Belgium are in Syria/Iraq, including 12 Foreign Terrorist Fighters (FTF). Six minors attempted to travel to Syria/Iraq but their attempt was aborted (FTF cat. 4), and 4 minors are suspected of intending to leave (FTF cat. 5). Finally, 115 accompanied minors having Belgian connections are in the region of Syria and Iraq.

Unaccompanied minors

According to the same source and based on the information available as of August 18, 2017, Belgium has 18 minors considered as belonging to one of the five categories of FTF, including seven girls and 11 boys. Two FTF minors could not conduct their project to go to the conflict areas because they were prevented from leaving (cat. 4, one girl and one boy). Four minors potentially intend to go to Syria/Iraq (cat. 5, three boys and one girl). One of these boys also received the status of Homegrown Terrorist Fighter (HTF). It is assumed that 12 FTF minors are located in Syria/Iraq (cat. 1, seven boys and five girls). One of the FTF minors cat. 1 probably died in January 2017 but this information has not been confirmed. Four of the FTF minors will turn 18 years old this year (2017) and will therefore reach the age of majority. There will be three 17 year olds this year, two 16 year olds, three 15 year olds, two 14 year olds, two 13 year olds and the youngest ones will be 12 years old.

As of August 18, 2017, 12 minors in Syria/Iraq coming from Belgium are considered as FTF cat. 1. Over the years, more minors have travelled to the area between Syria and

9 CUTA, Note contextuelle : Les Mineurs belges auprès de l’Etat islamique (Background note: Belgian minors and the Islamic State), Ref OCAD 334110, September 2017.
10 See footnote 12 for the different FTF categories.
11 CUTA, Note contextuelle : Les Mineurs belges auprès de l’Etat islamique (Background note: Belgian minors and the Islamic State), Ref OCAD 334110, September 2017.
12 Categories according to the Ministerial Circular of August 21, 2015:
-Category 1: alleged to be in a jihadist conflict zone in order to join groups organising or supporting terrorist activities;
-Category 2: on their way to a jihadist conflict zone;
-Category 3: on their way to Belgium or returning to Belgium after being in a jihadist conflict zone;
-Category 4: aborted attempt to go to a jihadist conflict zone;
-Category 5: people who display serious indications that they intend to go to a jihadist conflict zone.
Iraq. However, a number of them have died or have become adults. In addition, some minors who left as children with their parents have since turned 12 years old. From this age, they are considered as FTF cat. 1. One of these FTF. cat 1 is reported to have died in January 2017. However, this information has not yet been confirmed.

According to the information available as of August 18, 2017, six minors have either undertaken an abortive attempt to go to Syria/Iraq from Belgium (cat. 4 - two people, namely one girl and one boy), or are presumed to intend to go there (cat. 5 - four people, namely three boys and one girl). They all have Belgian nationality. It is evident that more minors have intended to leave for Syria and Iraq or have effectively tried to get there, but these children have since reached the age of majority and/or are no longer candidates for departure.

According to available information, most of the FTF minors have become radicalised in contact with or under the influence of family members (brothers, sisters, etc.) and friends (from school, the neighbourhood, etc). The groups in which the FTF minors become radicalised usually consist of groups of as many boys as girls of the same age who live in the same neighbourhood or who have had contact with each other. All older FTF minors are active on social networks such as Twitter and Facebook, and some display high user activity. They publish propaganda material and try to recruit classmates or alike. No information is available on internet usage by FTF children who left when they were children with their parents but who have since turned 12 years old.

There is also little information concerning the schooling of FTF minors.

**Accompanied minors**

CUTA explains in its report that besides the minors who joined the ranks of IS, often as combatants, there is a number of children who were brought by their parents or were born in Syria or Iraq. On the basis of the data available as of August 18, 2017, there are at present approximately 115 accompanied minors in the region. Accompanied minors are less than 12 years old and left with their Belgian parent(s) or their parent(s) from Belgium. One accompanied minor is reported to have died. For 32 minors (28%), we do not have any information related to gender and/or age. In most cases, these children were born in the area. Data which is actually available for minors usually concerns children under six years old (57%). Only two minors would be over 10 years old.

Several studies, generally based on the propaganda spread by IS but also on articles written by journalists, have described the training reserved specifically for children and its objectives. As part of this analysis, most of the contextual information will be taken from the study conducted by Quilliam Foundation, ‘The Children of Islamic State’, published in March 2016.13

The leaders of IS give particular importance to the children in Iraqi and Syrian territory. Through training focused on its ideology, IS seeks to prepare a new generation conditioned and ready to serve. The internal goal is, of course, to secure the future of the Caliphate.

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If IS is sadly not the only terrorist group\textsuperscript{14} or regime to recruit children for violent acts, the use here takes on a particular dimension in view of its propaganda. The purpose of spreading videos of executions committed by children, exceeding the generally acceptable norms, is to give IS media attention but also, in general, to instil fear; IS seeks to convey the message that everyone from an early age is a threat and that this threat will only increase with age.

**The training in brief\textsuperscript{15}**

IS has a ‘Ministry of Education’ (Diwan al-Ta’aleem). This ministry decided that education was to be compulsory for boys aged 6 to 18 and for girls aged 6 to 15. Registration fees for Mujahedeen children are likely to be covered.

Unsurprisingly, in the first weeks following the proclamation of the Caliphate, IS revised and limited the existing curriculum, considered decadent by IS, because it tried to separate religion from the State. Even if the programmes still include mathematics, English or geography with a revised content, the teaching focuses mainly on learning the Quran, the history of Islam, physical education (renamed ‘jihadist training’) which includes shooting, swimming and wrestling classes.

Teacher training has also been reviewed. All teachers must undergo sharia training and those who had taught before the arrival of IS must repent before a sharia committee.

Children of families from the West who have joined IS receive lessons on Arabic language, Quran and hadiths. Once they have completed the training on the Quran and the Arabic language, these children move on to physical and military training where they are taught weapons handling and hand-to-hand combat. Schools which provide training in English (with the exception of the learning of the Quran which is taught in Arabic) have also been set up.

The indoctrination of children, which begins at school at the age of six, intensifies in training camps where children aged 10 to 15 are educated in Sharia law and learn how to serve IS. The boys are trained in combat but also on how to teach the Quran and to manage prisoners in the Caliphate. Children are used as soldiers\textsuperscript{16}, preachers, spies, suicide bombers or even executioners.

Even if some information indicates that girls are also trained on how to use weapons to defend the Caliphate if necessary, the training of girls seems however clearly focused on a single mission, i.e. taking care of the household, being good wives and good mothers. To that end, they learn how to cook, clean, sew, etc.

We have no precise information regarding the specific curricula followed by the children linked to Belgium. In reality, some schools have to close (sometimes temporarily) due

\textsuperscript{14} Jabhat al-Nusra also broadcast videos showing that the group had trained teenagers.

\textsuperscript{15} CUTA, *Mineurs belges et Etat islamique* (Belgian Minors and Islamic State), Ref OCAD 279749, October 2016.

\textsuperscript{16} IS articulated a religious justification for these child soldiers in the 2015 March edition (n°8) of Dabiq, the Islamic State’s magazine, in an article titled ‘The lions of Tomorrow’.
to the war, or are lacking in materials and trained teachers. However, considering the
centralised dimension of this compulsory education and the capacities shown by IS to set
up an administration on the whole territory that it occupies, it is clear that children coming
from Belgium or refugees who have come to Europe after having remained a certain time
in a territory managed by IS have followed this education. It has been established that at
least one French child of nine years old\(^{17}\) has attended this kind of school and learned the
use of weapons and explosives\(^{18}\).

IS has also imposed its training in orphanages in the areas it controls. To ensure that
education is complete, IS has also developed manuals so that the family also trains
children in accordance with IS’s ideology.

**Consequences**

In addition to the ideological training that children receive, which could at the very least
complicate their reintegration in a Western democratic society, the combat training (the
use of weapons in particular) represents a threat if the children return to their country of
origin.

We do not know of any accompanied minors who have left Belgium and have been
involved in violent acts. Several videos of executions carried out by Western children (in
particular British and French) have been released by IS. In the videos, probably under the
pressure of adults, the children sometimes threaten to return to their country of origin and
martyr themselves.

Some children coming from Belgium have appeared a few times in the media. The first
time was in 2014 in a documentary titled ‘Grooming children for Jihad’, where a man
having lived in Belgium indoctrinated his son-in-law to reject unbelievers. In February
2015, in a propaganda video released by IS, an Antwerp jihadist in a rowboat threatened
Belgium in Dutch; at his side was a child. A photograph of a very young child armed with
an assault rifle, who left for Syria after being kidnapped by his mother, was also issued
by IS.

However, the short-term threat posed by these minors, if they were to return, has to be
put into perspective. Based on the age of the children who left Belgium with their parents
to join IS, we can consider that only three boys were potentially trained at a training camp.

**Underage sympathisers of IS in Belgium**

Between 2012 and 2016, 18 minors were prevented from going to Syria and were
intercepted either while they were on their way to the conflict zone or still in Belgium
but showing serious signs of an imminent departure. This large number (25% of the
departures prevented from happening) is a result of the specific legislation for minors,

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\(^{17}\) In order to ensure a better monitoring of children in jihadist areas, the Dutch authorities decided that from
the 1st of May 2016 children from the age of nine would be included in their terrorist watch list because it
appears that those children are involved in acts of violence.

\(^{18}\) A Human Rights Watch report also points out that children may be trained on manufacturing explosives.
which in particular made it possible to report these young people to the authorities of neighbouring countries, frequently leading to their surrender to the Belgian authorities. Several of these children were also able to be placed in Youth Protection Institutes by judges of juvenile affairs as part of ‘minors at risk’ cases.

Despite their follow-up, some of them will continue to pose a threat. For example, one minor was prevented from leaving on two separate occasions at a year’s interval while all stakeholders believed she had returned to the right path between her two attempts.

As we can see by analysing the attacks committed in recent years and related to the propaganda of IS, several acts were committed by people who were prevented from leaving.

Those minors who have been prevented from leaving, as well as those who are considered as candidates for departure, must certainly be monitored. Although being no longer the case, mainly due to the decrease in departures, we have noted that in the past, many youths between 18 and 20 years old were going to Syria and Iraq, signifying that their departures took place soon after becoming of age.

Several recent investigations in Belgium and France have led to the arrest and sometimes to the placement of a number of minors, girls and boys, who had been discussing the possibility of carrying out attacks in places close to their home on Telegram channels, often led by people in Syria. Even if their technical abilities generally appear to be limited, an attack based on a simple modus operandi, as spread by IS’s propaganda, is quite within their reach. The interest in and mastery of new technologies by young people is surely an explanation for the presence of high number of minors on these forums. IS has also designed specific propaganda for minors. The November 2015 issue of Dabiq focused on an attack carried out in Australia, in October 2015, in which a 15-year-old boy shot dead a police officer. The magazine encouraged IS supporters not to use their young age as an excuse for inaction.

For the sake of completeness, let us add that this propaganda, especially the frequent call to commit acts against infidels in the country of origin instead of going to the conflict zone, reveals the fact that minors who had never expressed the intention to travel to Syria were nonetheless holding discussions via Telegram about the possibility of carrying out attacks on behalf of IS. The arrests in Nice on September 24, 2016, made this clear once again.

IC. Description of the global political approach/trend and legislative focus in response to terrorism in our country. What are the main policies and strategies implemented?

Belgium considers that the fight against terrorism is fundamental and strives to employ all adequate means to prevent and effectively prosecute terrorist acts. This fight against terror is being pursued with respect for human rights and the rule of law. Belgium has implemented an approach that is intended to be not only coherent and effective, involving all relevant actors, at the level of the Federal State and the federate entities, but also
revolving around a political, legal and institutional framework as well as provisions aimed at improving international cooperation.

**AT THE POLITICAL LEVEL**

At the political level, various major policy measures have been taken in the fight against terrorism and radicalism both at the federal level and at the level of the Regions and Communities. A distinction can be drawn between measures taken before and after March 22, 2016. It should be noted that these measures target terrorism in general and not only ‘minors suspected of terrorist offences’.

**AT THE FEDERAL LEVEL**

**Before 22 March 2016**

The first counter-terrorism initiatives were developed after the events of September 11, 2001, and the bombings in Madrid (2004) and London (2005). When, in 2011, some young people left Belgium to take part in the armed struggle in Syria, the phenomenon started to receive attention though it was as yet to be perceived as very problematic. It all accelerated from 2012 as a result of the first ‘returns’. In response, Belgian authorities have taken more and more measures.19

**The Federal Government agreement of October 11, 2014, and the policy notes of the Minister of Justice and the Minister of Home Affairs**

The Federal Government agreement of October 11, 2014, provides for an integral approach to radicalisation in the framework of which cooperation has been developed in the short term with the federate entities together with the development of a policy at the preventive, proactive, judicial and administrative level. Thereafter, in their different policy notes, the Minister of Justice and the Minister of Home affairs have paid particular attention to the fight against terrorism and radicalisation.

**The 12 measures announced in January 2015**

In the wake of the foiled attacks in Verviers, on 16 January 2015, the Council of Ministers has approved twelve measures, namely:

1. Insertion in the Criminal Code of a new terrorist offence relating to travel abroad for terrorist purposes;
2. Extension of the list of offences leading to the use of specific research methods;
3. More options for withdrawal of Belgian citizenship;
4. Temporary withdrawal of the identity card, refusal to issue and withdrawal of passports;
5. Structural reform of the intelligence and security structures. Establishment of a National Security Council;

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19 Parliamentary inquiry tasked with reviewing the circumstances which led to the terrorist attacks of March 22, 2016 in Brussels Airport and Maelbeek Metro Station, in Brussels, including the evolution and the management of the fight against radicalism and the terrorist threat, June 15, 2017, third intermediate report relating to the ‘security architecture’ section, DOC. 54 1752/008, p.89-90.
6. Activation of the legally established mechanism to identify persons involved in the financing of terrorism and whose assets will be frozen;
7. Revision of the ‘Foreign Fighters’ Circular Note of 25 September 2014;
8. Optimisation of the exchanges of information between the authorities and the administrative and judicial services;
9. Revision of the 2005 plan against radicalisation;
10. Fight against radicalism in prisons;
11. Calling in the Belgian army for specific monitoring missions;
12. Strengthening of the capacity of the State Security and transfer of the VIP protection to the federal police.

The 18 measures announced in November 2015

After the Paris attacks (November 13, 2015), the Federal Government announced a new set of 18 measures on November 19, 2015, namely:

1. €400 million for security and the fight against terrorism;
2. Reinforcement of police controls at the borders;
3. Deployment of 520 military to reinforce security;
4. Particular research methods. New technologies for the intelligence services (voice recognition, expansion of wiretapping including arms trafficking) [revision of Criminal Code needed];
5. 72 hours of administrative detention for acts of terrorism instead of 24 hours [revision of Constitution needed];
6. House searches 24 hours a day for terrorist offences. End of the exception forbidding house searches between 21:00 (9pm) and 05:00 (5am);
7. Foreign fighters: deprivation of liberty and jailed upon return to Belgium;
8. Electronic bracelet for people who are registered by the threat analysis services: an adversarial procedure will be introduced in order to impose electronic control bracelets;
9. Belgian PNR (Passenger Name Record);
10. Screening of all hate preachers in order to place them under house arrest, to deprive them of their liberty or to expel them;
11. Dismantling of unrecognised places of worship which propagate jihadism;
12. End of anonymity for pre-paid cards;
13. ‘Plan Molenbeek’: prevention and repression (renamed ‘Plan Canal’);
14. Reinforcement of the screening before access to sensitive jobs;
15. Extension of the camera network for recognising license plates;
16. Closing down websites preaching hate;
17. Evaluation in order to adapt legislations linked to the state of emergency. Possibility for temporary and exceptional measures to ensure public safety;

Since then, some of these measures (for example, the electronic bracelet as an administrative measure for the people who return from the conflict zones) have either been abandoned or have not yet been implemented.
National Action Plan against Radicalism

After the foiled terrorist attacks in Verviers, the National Security Council approved on December 14, 2015, the ‘Action Plan against Radicalism’ (Plan R), to prevent radicalisation and violent extremism. This plan is an update of the previous plan adopted in 2005.

This is a plan with an approach aimed at reducing radicalism and extremism in our society through integrated collaboration among various public services. The cooperation also targets Regions and Communities as well as local authorities.

To this end, Plan R has two objectives: mapping out the individuals and groups that have a radicalising effect on their environment and reducing the vectors of radicalisation. Its purpose is the early detection of radicalising actors with a view to taking the necessary measures in time.

The objectives and development of Plan R are part of a common and integrated approach, in the form of a National Task Force, different working groups and Local Task Forces (LTFs). The objective is to lead, both at national and local level, to the creation of a forum for the exchange of information between the different services, to ensure the collaborative treatment of the information and to propose adequate measures by consensus.

The National Task Force is the strategic body of the Action Plan and is responsible for its general management and ongoing monitoring. The National Task Force is chaired by CUTA and brings together every month the Home Affairs FPS’s Directorate General for Security and Prevention, the Justice FPS’s Directorate General for the Prison Administration, the Communities and Regions, the Federal Prosecutor, the Federal Police, the State Security, the General Intelligence and Security Service of the armed forces, the Home affairs FPS, the Foreign Affairs FPS, the Directorate General of the Crisis Centre, the Standing Committee of the local police, the Financial Intelligence Processing Unit (CTIF) and the Immigration Office. After analysis, the information collected is pooled in the common database (developed below).

The Local Task Forces have been set up to achieve and ensure interaction at local level. The LTFs are organised at the level of the judicial district and consist of the Local and Federal Police, the Intelligence Services, CUTA, as well as possibly a representative of the local public prosecutor’s office. The LTFs are operational and strategic platforms for police and intelligence services in a geographically defined area. They follow radicalising individuals and groups at local level and propose measures to reduce the impact of these individuals and groups. They exchange information, intelligence and analysis, make them consistent and maintain structural and/or temporary contacts with local authorities and their services. They can suggest the retrieval of information or its deletion from the Joint Information Box. They provide support to front-line and non-specialised police officers who are confronted with signs of possible radicalisation, and they can formulate

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20 Differing from the FTF database, the Joint Information Box is an electronic working document containing information on radicalising young people to be followed. The different services decide by consensus whether to add or delete the data of a person in the database.
preventative measures as well as measures to counteract the phenomenon and enforce these measures.

As part of the National Task Force, different working groups have been created. Their field of action concerns a specific phenomenon, trend or issue. The aim of the working groups is to achieve permanent cooperation and to develop the relevant know-how about specific vectors of the phenomenon of radicalisation. For example, the permanent working groups are working on the issue of radicalisation on the internet, in prisons, on the radio and on television. They are also working on prevention. Thematic working groups deal with phenomena such as Salafism, right-wing extremism, left-wing extremism or trends in Asia Minor and the North Caucasus. The ad hoc working groups in the areas of ‘Preachers’, ‘Mosques’ and ‘Asylum and Migration’ focus on the issue of problematic radicalisation in relation to these areas. Finally, the ‘Foreign Terrorist Fighters’ working group was established under the Ministerial Circular of 21 August 2015.

**Other structures or tools have also been created by this Action Plan against Radicalism.**

This is the case of the Local Integrated Security Cell (CSIL)\(^{21}\) which consists of a local consultation platform at the level of the municipality that brings together the social and prevention services, a representative of the LTF and the administrative authorities. The goal is to pass information related to Foreign Terrorist Fighters (FTF) and Home Terrorist Fighters (HTF) to the competent bodies in order to reintegrate radicalised people into society. In this approach, either repressive measures or social monitoring are implemented. This consultation ensures the coherence of preventive, repressive and monitoring actions. Cities and municipalities can choose for themselves the actors who are involved in the CSIL. Each city or municipality can focus on certain areas, according to its specific needs. All different actors have a role and special missions to play within the CSIL.

- Actors in socio-prevention work provide information to the police in order to complete the FTF fact sheet and play an important role in monitoring the FTF.
- The police services make inquiries in the neighbourhood and are responsible for administrative measures.
- The security and intelligence services are responsible for the initial information gathering and verification, as well as for evaluating the individual threat analysis.
- The judicial authorities are in charge of following-up with the collection of information and of taking judicial measures.
- The local administrative authority ensures early detection of radicalisation and takes administrative measures. If there is a prevention worker in the city or municipality, he or she can serve as a primary point of contact for the services of the city/municipality.
- The local administration services - youth, education, etc. -, the mediation services, the support services for minors and the Public Social Assistance Centre’s (CPAS) social service can all detect signals from an early stage and transmit them, but they can also assist individuals.
- Local business associations and self-employed workers can report sector-specific security concerns and forward this information.

\(^{21}\) Created by the Circular of 21 August 2015 on the exchange of information and the monitoring of ‘foreign terrorist fighters’ coming from Belgium, Circular developed below.
A CSIL can consist of three consultation platforms or committees:

- The strategic committee works from a policy perspective. It defines the political lines and priorities and ensures the control and coordination of the tactical level.
- The tactical committee works on the management aspects. It is responsible for the management and coordination of the operational level through establishing priorities among open files. It defines and distributes the different tasks, skills and responsibilities of each actor. It also draws up standardised, proactive, preventive, curative and reactive scenarios in connection with the monitoring of each target group.
- The operational committee works from a case perspective. It sets out clear working agreements regarding the file opening, its constitution, its weighting, its approach, its evaluation and finally its closure. The committee has an integrated approach: it sets out clear cooperation agreements for gathering, enriching and sharing information between local police, administrative and support services.

**The Action Plan of 11 March 2015 against radicalisation in prisons**

The government has made the fight against radicalisation in prisons one of its priorities. The fact that prisons are a breeding ground for radicalisation and recruitment is not new. Prisoners are indeed a particularly vulnerable public.

Although this point does not directly concern minors, who cannot be placed in prisons, this is an interesting aspect of prevention because imprisoned adults can be in contact with children, whether in their family or neighbourhood, once released from prison.

On March 11, 2015, the action plan in question was launched by the Minister of Justice. Its central objective is twofold. It aims, on the one hand, to prevent the radicalisation of detainees during their stay in prison and, on the other hand, to develop specialised supervision of radicalised people during their detention. It strives for:

- better living conditions in the penitentiary institutions;
- a stronger position towards information;
- efficient consultation and coordination structures;
- the digitisation and automation of the flow of information;
- better detection of radicalisation;
- a well-considered placement policy;
- an individualised approach when necessary;
- the systematic involvement of the representatives of the various religions;
- deradicalisation and disengagement programmes; and
- reinforced cooperation with the local level, the federate entities and with Europe.

Its ambition is to allow the detainees to defend themselves against the influences of extremist ideas within the prison walls and to ensure a firm and rigorous follow-up of radicalised elements. It will be necessary to examine whether the Law on the principles of prison administration needs to be revised in light of this new challenge, in particular as regards placement, visit regulations, correspondence, cell searches, etc.
The creation of two specialised wings in the prisons of Ittre and Hasselt was one of the measures taken.

**The Ministerial Circular of August 21, 2015, relating to the exchange of information and the monitoring of the FTF coming from Belgium**

The Circular of August 21, 2015, was closely established with all the relevant services and is the administrative component of a judicial and administrative integrated approach to the FTF. The judicial approach is described in the new Circular of the College of Senior Crown Prosecutors.

The Circular provides a customised analysis of the threat posed by every FTF on the basis of information received from various services, gathered in a single database, with a package of tailored measures as well as specific support measures at local level. This database dedicated to the ‘Foreign Terrorist Fighters’ has recently been made available to the authorities. It allows Cuta, our intelligence and security services, police authorities, the justice, etc., to share data relating to Belgians and individuals who reside in our country and who are on their way to a ‘jihadist conflict zone’ or who have already returned. This dynamic database contains information sheets for each FTF, HTF and JIB (hate preachers), which enable all information to be available to the relevant services. The database receives inputs from the police and intelligence services, as well as from any other relevant partner.

With this new Circular, the Ministers of Justice and Home Affairs wish to brief local authorities as fully as possible on the FTF present on their territory and to ensure their monitoring in close cooperation.

**The ‘Plan Canal’**

The “Plan Canal” (the “Action Plan against radicalisation, violent extremism and terrorism in the canal zone”), officially introduced by the Government on February 5, 2016, and actually launched in April 2016, implements one of the eighteen above measures that the Government had announced shortly after the Paris attacks of November 13, 2015. This plan concerns five police zones and eight Brussels municipalities. ‘The project consists in combining the forces of the federal authority, the police zones, the federal police, the public prosecutor, the local governments and the Brussels-Capital Region.’ This plan has a double objective: on the one hand, the fight against radicalisation, terrorism

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22 Created by the Law of April 27, 2016, on additional counter-terrorism measures (MB 9/05/2016) and formalised by the Royal Decree of 21 July 2016 relating to the common Foreign Terrorist Fighters database and implementing some provisions of section 1 bis regarding ‘information management’ of chapter IV of the Law on police function (MB 22/09/2016).

23 Parliamentary inquiry tasked with reviewing the circumstances which led to the terrorist attacks of March 22, 2016 in Brussels Airport and Maelbeek Metro Station, in Brussels, including the evolution and the management of the fight against radicalism and the terrorist threat, June 15, 2017, third intermediate report relating to the ‘security architecture’ section, DOC. 54 1752/008, p.102.

24 Brussels-South, Brussels-West, Brussels-Capital Ixelles, Brussels-North and Vilvorde Machelen.

25 Saint-Gilles, Anderlecht, Molenbeek, Koekelberg, Laeken, Saint-Jose-ten-Noode, Schaerbeek and Vilvorde.

26 Parliamentary inquiry tasked with reviewing the circumstances which led to the terrorist attacks of March
and against a series of related criminal facts (traffic of weapons, narcotics and false documents) and on the other hand, the fight against the illegal economy. It provides for an integrated approach (between the federal and the local police) as well as a complete approach (collaboration with other authorities and partners such as the public prosecutor, the municipality services, etc). The objective is to promote collaboration of several services on the basis of a transversal approach in different crime areas in connection with terrorism. Developed in 2014 by the General Brussels Public Prosecutor’s office in collaboration with the Federal judicial police in Brussels, the ‘Belfi project’ is part of this project and allowed the monitoring of 1571 Not-for-profit associations in Molenbeek, of which 91 were referred to as ‘suspicious’ and 91 were dissolved.27

Other policy measures

Various ministerial circulars have also been issued by the Minister of Justice and the Minister of Home Affairs or by the College of Principal Public Prosecutors in this area:

• Ministerial Circular GPI 78 of 31 January 2014 on information processing in favour of an integrated approach to terrorism and violent radicalisation by the police;
• Confidential Circular COL 10/2015 relating to the judicial approach to FTF.

After March 22, 2016

The events that occurred in 2015 and 2016, particularly the terrorist attacks in France and Belgium, led to the adoption of several additional measures, notably in the new Framework Memorandum on Integral Security (NCSI) and the 2016 National Security Plan (PNS).28

Emergency plan in case of hostage-taking or terrorist attack

In terms of security, a national emergency plan on the approach to be implemented in case of a terrorist hostage-taking or a terrorist attack was set by a Royal Decree on 1 May 2016.

This plan is based on the approach to be implemented in case of a crisis situation that arises as a consequence of a terrorist hostage-taking or a terrorist attack that either occur unexpectedly or are the result of an already identified threat which has eventually materialised.

For the latter case specifically, the emergency plan provides for an early warning procedure through warning and management measures to prevent the identified threat of hostage-taking or terrorist attack from being executed or to reduce the threat.

22, 2016 in Brussels Airport and Maelbeek Metro Station, in Brussels, including the evolution and the management of the fight against radicalism and the terrorist threat, June 15, 2017, third intermediate report relating to the ‘security architecture’ section, DOC. 54 1752/008, p.102.

27 Ibid.

28 Parliamentary inquiry tasked with reviewing the circumstances which led to the terrorist attacks of March 22, 2016 in Brussels Airport and Maelbeek Metro Station, in Brussels, including the evolution and the management of the fight against radicalism and the terrorist threat, June 15, 2017, third intermediate report relating to the ‘security architecture’ section, DOC. 54 1752/008, p.96.
Two structures, a management unit and an operational one, should be working under the national emergency plan.

As far as the judicial authority is concerned, the criminal investigation is to be conducted by the Federal Prosecutor from Brussels.

The provincial governors and the Governor of the Brussels-Capital Region are in charge of elaborating a special emergency and intervention plan for tackling the risk of terrorist hostage-taking or terrorist attack.

**Framework Memorandum on Integral Security (2016-2019)**

In 2015, following the attacks in Paris and the threats posed by FTF, a new Framework Memorandum on Integral Security (NCSI) was developed, in collaboration with the Communities and Regions. The National Security Council (described below), created in the meantime, was associated to the NCSI.

Radicalisation, violent extremism and terrorism (including polarisation) are some of the priority areas of the NCSI.

It aims to create and ensure a safer society limiting the individual and social impact of radicalism and terrorism. Several strategic objectives are defined:

- An integral and integrated approach through a national platform where the different actors involved in the security chain work together;
- a chain approach to the phenomenon by developing a preventive, punitive and curative approach at all strategic levels;
- the development of a policy based on knowledge and evidence;
- an individual tailor-made approach based on the measures to be taken;
- a pro-active detection, prosecution and punishment of terrorist offences using all legal means and all those involved in the security chain.

The NCSI provides various measures as regards representation, prevention, repression and monitoring.

In terms of representation, it plans to draw an accurate picture of radicalisation in our country, based on a better circulation and exchange of information, the provision of information to all the potential partners,29 as well as better management of knowledge and expertise in prevention initiatives.

In terms of prevention, the NCSI is particularly focused on widening and deepening cooperation with the Communities, the Regions and the local authorities, in order to set up socio-preventive initiatives, to strengthen the relationship with the religious civil society, to promote dialogue with the representatives of faiths, to develop strategic communication, with the goal of strengthening resilience through the development, provision and evaluation of various channels of communication, including dissuasive discourse and the early identification of individuals and radical groups.

29 It includes the Local Task Forces, Communities and Regions, local administrations and the academic world.
In terms of repression, the focus is put on the inventory, the follow-up and the evaluation of existing measures and new measures to be taken in order to reduce the impact of individuals and radical groups, but also on the exchange of information between the legal and administrative authorities. The strategic and operational objectives of the relevant authorities and services will be further specified and coupled to a tracking system; emphasis is also placed on improving the effectiveness of the mechanisms put in place to combat the financing of terrorism and on improving cooperation between the various competent services in this matter.

Finally, in terms of monitoring, the goal is to support existing good practices in terms of a preventive and curative approach, to ensure a better follow-up of individuals who are in a process of disengagement, to support families by offering educational support and information to parents, and to accompany family members, friends or other persons concerned (as for example, teachers) around the radicalised young people or those in the process of radicalisation and to put them in contact with those facing the same situation.

2016-2019 National Security Plan (PNS)

In the wake of the NCSI, the National Security Plan was developed and launched on 13 October 2016 within the police services. This plan is a document which is published every four years by the Ministers of Justice and Home Affairs, who shall ensure, by fixing the lines of force of the police policy, the proper functioning of the federal and local police, as well as their mutual collaboration. The PNS also constitutes the foundation of the cooperation between the police and the justice sectors. It aims to improve the working relationship between the Public Prosecutor and the police. In this plan, the Federal Government has determined which security issues need to be given priority. The fight against terrorism is part of the National Security Plan and is prepared by the federal police, in close consultation and cooperation with all relevant bodies such as the local police through its Standing Committee, the Home Affairs FPS, Justice and Mobility, the College of Principal Public Prosecutors, the Federal Prosecutor’s Office, etc. This plan addresses the same priorities as the NCSI, including the fight against radicalisation, violent extremism and terrorism.

This plan pursues the following strategic objectives:

- the strengthening of the approach to addressing radicalisation, violent extremism and terrorism by the integrated police force in order to:
  - ensure the exchange of expertise and information;
  - provide support to the authorities and local and federate services;
  - participate in the development of strategic communication, in collaboration with partners, in order to strengthen resilience through the development, provision and evaluation of various communication channels, such as a deterrent discourse. In addition, the federal police is part of the procedure to remove internet content in cooperation with internet service providers;
  - identify at an early stage, within the National and Local Task Forces, individuals and radical groups for possible registration in the Joint Information Box and the dynamic database;
  - put forward and define safety measures;
- contribute to the inventory, follow-up and evaluation of existing measures and new measures to be taken, in collaboration with the partners within the National Task Force and the Anti-radicalisation plan partners in order to reduce the impact of individuals and radical groups;
- prevent the transition from radicalism to terrorism, in collaboration with the partners of the National Task Force and the Anti-radicalisation plan partners;
- allow the federal police force to improve the effectiveness of the mechanisms in place against the financing of terrorism and the cooperation between relevant services;
- foster collaboration with the partners within the National Task force and the Anti-radicalisation plan partners, and in particular the Communities and the Regions, to contribute to the evaluation of the application of the Circular COL 10/2015 relating to the judicial approach to FTF as well as the Ministerial Circular of August 21, 2015, relating to the exchange of information and the monitoring of FTF coming from Belgium, while making adaptations if necessary in order to guarantee an effective approach to the problems;
- ensure a better monitoring of individuals who are in a process of disengagement, in collaboration with the partners within the National Task Force and the Anti-radicalisation plan partners;
- develop efficient cooperation with the social sector (e.g. education, welfare...) related to the preventive approach.

• the internal working procedure improvement of the integrated police force as regards the approach to radicalisation, violent extremism and terrorism:
  - to establish a precise representation of radicalisation in our country, on the basis of a better circulation and exchange of information and by informing all the potential partners, in particular the Local Task Forces, the Communities and the Regions, local governments and the academic world;
  - to fight against different types of crime related to abuse via internet and/or identity theft, to confiscate financial and logistic means facilitating the process of radicalisation leading to terrorist acts and to work towards a harmonisation and an international cooperation in the fight against this phenomenon.

**On the level of the Communities and Regions**

In Belgium, the responsibility for security falls on the Federal State whereas issues related to prevention, public awareness, training, early detection of radicalised people and social support are the responsibilities of the Communities and the Regions. Therefore, the Brussels-Capital Region, the Flemish Community, the French Community and the German-speaking Community have also taken a certain number of initiatives regarding terrorism and radicalism and have also set up their own action plans. Again, it should be stressed that these initiatives do not specifically target minors.

**The French Community/Wallonia-Brussels Federation**

In the context of the Paris attacks, the Wallonia-Brussels Federation (FWB) government, in the various sectors coming under its responsibilities, set up an anti-radicalism network
in January 2015, aimed at coordinating the preventive actions of the Federation institutions, and at fostering the initiatives to strengthen ‘coexistence’. The Network is composed of representatives of the Members of the Government and the administration. Representatives of other federate entities are also associated.

A leading official has been designated by the Government as a radicalism consultant who ensures the coordination of the action of the Network. An alert procedure, in the event of an emergency situation established by a FWB service or operator, was founded under its aegis, in dialogue with the federal police force. The relevant person represents the FWB to the National Task Force organised by CUTA and serves as the contact person for various European, federal and regional authorities on issues related to radicalisation leading to violence and its prevention.

An expert committee composed of representatives of the academic world, the civil society and the administration has been set up to inform on the action taken by the public authorities and to give an opinion on the tools developed or supported by the FWB.

Increased support has been given to some training and awareness-raising projects (e.g. supporting the dissemination of the theatre play ‘Jihad’ in schools, training of youth workers, teachers, social workers...).

In the area of compulsory education, the Mobile Teams Service was designed to support school principals confronted with alleged or real phenomena of radicalisation. The Service is responsible for transmitting information, delivering an opinion on the evaluation of the situations deemed problematic and formulating suggestions on the follow-up.

In January 2016, the Government wished to strengthen its prevention policy by establishing:

- a single contact point with the necessary listening skills and guidance tools for any question relating to extremism and radicalisation leading to violence, to the attention of professional actors (social workers, teachers, psychologists, youth workers...) or the public.

- a free and confidential phone line, open from 8 a.m. to 8 p.m. during working days, which responds to requests of all sorts (information of general order, calls for assistance, situation assessment, development of projects...): 0800 111 72.

- a Resources and Support (CREA) Centre, in charge of supporting the prevention policy, fostering and accompanying projects carried out by the FWB services and operators. This Centre develops:

  - awareness-raising campaigns directed towards the FWB public (pupils, students, young people, lifelong learning students...)
  - educational tools and training programmes on violent radicalisation to the relevant FWB professionals (schools, youth and lifelong learning associations...)
  - intervention skills with first-line actors, accompanying them towards a preventive approach
• knowledge of the phenomena of extremism and violent radicalism, through the conduct of studies and the networking of researchers and experts in Brussels and in Wallonia.

• a Care Centre for Violent Extremism and Radicalism (CAPREV), coordinating a multi-field team whose mandate is to deal with individual situations, to guide cases and to ensure their follow-up as well as to help professionals. Through its intervention:
  - It offers specific help to those people (close friends, family…) concerned with problems of extremism.
  - It aims at stopping radicalisation processes which have led or can lead to violent acts.
  - It also seeks to prevent people from getting involved in these processes by accompanying them and supporting them in their disengagement path.

This system covers primary prevention (CREA), as well as secondary and tertiary prevention (CAPREV), and is based on the skills of the Federation in Education, Culture and Assistance to people. It has been operational since January 2017.

The website www.extremismes-violents.be presents information on a helpline, known as the ‘antiradicalism green phoneline’, and the services offered by the network, as well as a directory of informative resources and prevention tools validated by the Committee of Experts. New communication tools are being developed, on the one hand to reach the most vulnerable sectors of society and, on the other hand, to encourage the sharing of expertise and experience.

A cooperation protocol determining the areas and methods of collaboration of the FWB Network with eight Walloon and Brussels municipalities was completed at the end of 2017 and should enter into force in March or April 2018, when it will be introduced to the municipalities in order for them to join this framework.

In the education sector, the Mobile Teams Service has been strengthened to specifically support schools, assess situations and monitor the prevention of violent radicalisation. The Service was designated as a referent service in January 2015. Its mission is outlined by Circular n° 6036 of January 26, 2017. At the request of the head of the establishment, this service intervenes on an ad hoc basis in order to:

• support the educational team in order to supervise the pupil and maintain the dialogue with him/her;
• create or recreate the link between family and school to establish a relationship of trust;
• develop, where appropriate, partnerships with one or more associations to support the pupil and his/her family outside the school setting;
• report to the public prosecutor or the local police when the assessment establishes that the young person is a danger for himself/herself or for others.

More particularly with regard to professionals working with minors, the General Administration for Youth Assistance (AGAJ) has decided, as for other issues, to give the opportunity to its agents to take part in information and awareness sessions on
the phenomenon of violent radicalisation. Various questions are addressed such as the prevention, support and resources that can be mobilised when an agent is confronted with a suspected or actual situation of violent radicalisation. Youth workers should not become experts on the matter and emphasis is placed on detection and orientation in four hypothetical situations:

• A minor who has been radicalised or is in the process of radicalisation in Belgium
• A minor child of a relative who has been radicalised or is in the process of violent radicalisation in Belgium
• A ‘Returnee’ fighter (minor)
• A minor child of a ‘returnee’ fighter

Since March 2015, six information and awareness sessions spread over 30 days have been organised by the AGAJ, and since 2016 they have been held in cooperation with the Resources and Support Centre of the Antiradicalism Network. These sessions led to a first awareness and consciousness of the phenomenon and of the intervention network by all radicalism referents of the Youth Support Services, the Judicial Youth Protection service, the Public Youth Protection Institute and the Support, Intensive Mobilisation and Observation Services (SAMIO). In addition, a hundred non-referent delegates were able to take part in meetings organised between September 2016 and June 2017.

Training for all the referents of the public services (compulsory), the agreed services (on a voluntary basis) and the services of the MENA Plan started from November 2017. It consists of a basic module, which took place in November 2017, and of an advanced module, which will take place in February 2018. The modules will not only meet the needs on the ground for each service concerned, but will also create bonds between them on the matter. Further specific training may be offered by CREA.

The trainings already carried out and those sessions planned are compulsory for the referents of the public services and are proposed to the other services.

The Flemish Community

‘Similar actions were taken at the Flemish level within the framework of the Flemish action plan for the prevention of radicalisation processes that can lead to extremism and terrorism, the “Vlaams actieplan ter preventie vanradicaliseringsprocessen die kunnen leiden tot extremisme en terrorisme”.’31 The Flemish action plan is a dynamic plan which has recently been updated (7 June 2017) based on the evolution of perceptions about the threat of radicalisation and fresh perspectives for dealing with this issue in a new political situation. The action plan contains 14 action points on the following policies: coordination and cooperation in the implementation, support for the local approach, organisation of a person-centred approach, reinforcement of knowledge and expertise, and mobilisation of

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30 Translator’s note: MENA stands for ‘mineurs étrangers non accompagnés’, namely ‘unaccompanied foreign minors’.

31 Parliamentary inquiry tasked with reviewing the circumstances which led to the terrorist attacks of March 22, 2016 in Brussels Airport and Maelbeek Metro Station, in Brussels, including the evolution and the management of the fight against radicalism and the terrorist threat, June 15, 2017, third intermediate report relating to the “security architecture” section, DOC. 54 1752/008, p.95.
civil society. In Belgium, the Communities are responsible for matters related to people, including youth, education and youth protection.

In the Flemish action plan, the integral person-centred approach takes the form of a disengagement programme starting from an evaluation, and a multi-agency approach and collaboration. An individually tailored disengagement programme aimed at social reintegration and countering violent extremism encompasses several spheres of life. Multiple actors are therefore involved in the process. Support includes both aspects of security and socio-preventive guidance with a long-term perspective and ongoing follow-up. Given the importance of social context, the process is also linked to the individual’s reality at local level and may therefore rely on local partners. Local authorities, through the Local Integrated Security Cells, are responsible for managing disengagement programmes.

**The German-speaking Community**

In 2016, the German-speaking Community also presented its strategy for the prevention of radicalism. This strategy, based on 4 pillars (prevention, deradicalisation, cooperation and communication) covers the 2016-2020 period and comprises 50 measures. Among these measures is the ‘sensitisation of relay persons, first-line actors and private companies through specific training based on the necessity to recognise the signs of radicalisation and to address them in an adequate way’. The text also provides for ‘the promotion of critical spirit among young people as well as critical confrontation of social topics in schools’. Within this framework, the 2016-2017 school year was defined as ‘the school year of intercultural dialogue’.

**The Brussels-Capital Region**

The Brussels-Capital Region also adopted a Global Plan to Prevent and Combat Radicalism which is based on eight courses of action:

1. The establishment of a coordinating role for the Region by creating a structured network of contact/relay persons at different levels of power;
2. The provision of a structured pool of resource persons (experts of local, federal, or university services) in order to better understand the phenomenon and to act with suitable tools;
3. The initiation, support and development of awareness-raising or training activities;
4. The exchange of information on the existing initiatives at the regional level to various partners;
5. The creation of a point of information and assistance to accompany young people, their parents or other people who are concerned or worried;
6. The implementation of relays for the requests made by the municipalities to the political and judicial authorities;
7. The development of a network of external partners to ensure the follow-up of individual situations and preventive support;
8. The search for support at federal, European and international level of recognised sources of expertise as well as project funding support.
At the beginning of 2017, the Brussels-Capital Region also adopted its Global Prevention and Security Plan (PGSP) which focuses on 10 thematic subjects, including polarisation and radicalisation. Regarding the prevention of and fight against polarisation and radicalisation, the Region foresees a course of action centred on five action areas:

1. to train/sensitise the professionals and the public (directly or in support of the local actors);
2. to put resource persons (from institutions at various levels, associations) in contact;
3. to support social action;
4. to develop and make knowledge and necessary tools available to field workers;
5. to analyse and follow the phenomenon.

**AT THE INSTITUTIONAL LEVEL**

In Belgium, the principal government agencies involved in the fight against terrorism are:

- the Prime Minister, who is in charge of the overall policy and, therefore, is the chair of the National Security Council in which the Ministers in charge of certain aspects of security take part;
- the Minister of Justice, responsible for the judicial enquiries led by the public prosecutors and for the development, along with the College of Senior Crown Prosecutors, of criminal policy;
- the Minister of Home Affairs, in charge, inter alia, of the prevention of terrorism;
- CUTA which, under the joint authority of the Ministers of Justice and Home Affairs, analyses the threat of terrorism and extremism, on the basis of information and intelligence provided by its seven support services, including the General Information and Security Service, the Integrated Police force, the State Security, the different Foreign Affairs, Home Affairs, Finance and Mobility and Transport FPS. It succeeds the old Interforce Anti-Terrorist Group (GIA). The threat assessments are intended for the different political, administrative or judicial authorities with responsibilities in security. Ultimately, these authorities must take suitable measures to counter a possible threat as soon as it is detected;
- the local and federal police, which cooperates in all aspects of the prevention and the fight against crime, in particular terrorism;
- the State Security, overseen by the Minister of Justice, which is the civilian intelligence service;
- the Financial Intelligence Processing Unit (CTIF), an independent authority under the supervision of the Ministers of Justice and Finance, which collects and analyses financial information related in particular to terrorism;
- the Treasury, an administration of the Finance FPS, which is the competent authority, in accordance with the European regulations, for the administrative freezing of terrorist assets;
- the Customs and Excise Administration, which is competent in particular in the field of arms trafficking;
- the Radicalisation Unit of the Home Affairs FPS, which coordinates the prevention initiatives against radicalism. It also takes care of the preparation, implementation and evaluation of the Minister of Home Affairs’s security and prevention of radicalism policy.
In July 2013, Belgian law responded to the recommendations of the Financial Action Task Force (FATF) by creating two ministerial consultation committees (with their corresponding members) specialised in anti-money laundering and combating the financing of terrorism. These national authorities take care of the definition and coordination of the national policies as regards national risk analysis and threat assessment to which Belgium is exposed in the area of money laundering and financing of terrorism.

The Royal Decree of January 28, 2015 created a National Security Council. The Council establishes the general intelligence and security policy, ensuring coordination and determining the priorities in this policy area. It is also responsible for the coordination of the fight against the financing of terrorism and the proliferation of weapons of mass destruction. It also sets the policy for the protection of sensitive information. The NSC is chaired by the Prime Minister and is also composed of the Ministers entrusted with Justice, National Defence, Home Affairs and Foreign Affairs, as well as the Deputy Prime Ministers whose competences do not fall within these areas. The Deputy Head of the State Security, the Head of the General Intelligence and Security Service of the Armed Forces, the General Commissioner of the federal police, the Director of CUTA, the President of the Executive Committee of the Home Affairs FPS, a representative of the College of Principal public Prosecutors and the first federal prosecutor attend the Council meetings when their presence is required by the agenda.

Lastly, the Federal Government has set up a task force on the phenomenon of radicalism among foreign people. The task force is composed of the Justice, Home Affairs, Defence, Asylum and Migration offices. The Immigration Office, the Commissioner General for Refugees and Stateless Persons (CGRA), Fedasil (the Federal Agency for the reception of asylum seekers), CUTA, the Crisis Centre, the Home Affairs FPS, the penitentiary institutions, the State Security, the military intelligence services and the federal police are also represented.

The objective is to address the issue of radicalised foreigners, not only asylum seekers but also other migrants. It will also analyse the ‘incidents’ relating to radicalism and migration’. The task force is also in charge of optimising the screening of asylum seekers, of the training and guidance of the asylum authorities in dialogue with the intelligence and safety services. The follow-up of the issue of the radical imams and hate preachers will also be one of the main concerns of the task force.

**AT THE LEGISLATIVE LEVEL**

After the Brussels attacks, several items of legislation were adapted or created. Some of these modifications were already in preparation whereas others consist of new initiatives. These modifications relate, on the one hand, to the extension of opportunities for the police, intelligence and safety services as well as for the judicial system to intervene and, on the other hand, to the growing judicialisation and, consequently, an increased workload for the Federal Prosecutor’s Office, the specialised examining magistrates and the members of the federal Criminal Investigation Police. We will come back to the main legislative trends at point 2.A.

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32 Parliamentary inquiry tasked with reviewing the circumstances which led to the terrorist attacks of March 22, 2016 in Brussels Airport and Maelbeek Metro Station, in Brussels, including the evolution and the management of the fight against radicalism and the terrorist threat, June 15, 2017, third intermediate report relating to the “security architecture” section, DOC. 54 1752/008, p.121.
AT THE INTERNATIONAL LEVEL

The current terrorist threat is globalised and, as a result, the response to terrorism can hardly be constrained within strict geographical or legal boundaries. In response to this globalised threat, and along with domestic counter-terrorism arrangements, an international approach is therefore necessary. Belgium has prioritised cooperation with a relatively small number of countries, which constitutes the first external layer of its counter-terrorism policy. These countries are France, the Netherlands, the United Kingdom, Germany but also Morocco and Turkey. Outside these bilateral partnerships, the development of a European response to terrorism is a priority for Belgium. Our country was among the first in Europe to draw attention to the issue of FTF. It took the leadership of a group, known as the G11, which was intended to promote ‘the exchange of information on the threat, compares notes on policy measures and discuss areas where intensified cooperation is needed’33. In addition to its leadership role in the G11, Belgium is also at the forefront of information sharing within the specialised agencies Europol and Eurojust.

At the global level, Belgium supports a comprehensive approach, covering all aspects of counter-terrorism, from prevention to repression and shutting down terror financing, through the combined use of soft and hard measures.

1D. General status of extremist criminality concerning juveniles (under 18)

We have statistics from the prosecution services dealing with youths on juveniles suspected of terrorism for the years 2014 (22 minors), 2015 (35 minors) and 2016 (66 minors). However, it is important not to conclude that all these minors have committed actual acts of terrorism. This by no means represents the evolution of the phenomenon among minors.

With regard to the courts, there are no statistics at the level of the juvenile court to obtain useful data. The distribution of cases depends on the following encoding: whether the minor is considered as ‘at risk’ or if he or she committed ‘an act considered as an offence’, no distinction is made based on the nature of the offences.

2. National legislation in the counter-terrorism context

In this chapter, we shall begin by presenting the evolution of the legislation in the fight against terrorism. We shall then focus on terrorist offences as we know them today. Lastly, we shall discuss the system applicable to minors suspected of terrorist offences.

33 ‘Background note’, Justice and Home Affairs Council, Council of the EU, Brussels, 8 October 2014.
2A. Development of legislation in the area of counter-terrorism

The first legislative initiatives in the fight against terrorism were put forth after the events of September 11, 2001 in New York as well after the attacks in Madrid in 2004 and London in 2005.

- Belgium has made specific provisions on the fight against terrorism since December 2003. The Law of 19 December 2003 on terrorist offences, which transposes Framework Decision 2002/475/JHA of the Council of the European Union of 13 June 2002 on combating terrorism into Belgian law, inserts a new title, namely title Iter concerning terrorist offences in the Belgian Criminal Code. This title includes articles 137 to 141ter of the Criminal Code relating particularly to terrorist offences, terrorist groups and terrorist financing.

- Prior to this, various EU Member States, including Belgium, did not possess specific provisions on the matter. This does not mean that acts of terrorism remained unpunished. They were simply pursued by other Criminal Code provisions.

- Belgian law subsequently evolved with the Law of 18 February 2013 amending book II, title Iter of the Criminal Code. This law transposed Framework Decision 2008/919/JHA of the Council of the European Union of 28 November 2008 amending Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism, and put Belgian law in line with the Council of Europe Convention on the prevention of terrorism, open for signature in Warsaw on 15 May 2005. The goal was to strengthen and increase efficiency in the fight against terrorism. To this end, four new offences were inserted in the Criminal Code: public incitement to commit a terrorist offence (art. 140bis), terrorist recruitment (art. 140ter), terrorist training (art. 140quater) and the act of receiving terrorist training (art. 140quinquies).

- Following the attack on the Jewish Museum in Brussels (24 May, 2014), the attacks in Paris (January and November 2015) and the attacks in Verviers (15 January 2015), it was noted that one of the threats came from people who had gone abroad and had taken part in terrorist groups’ activities, whether in training camps or in combat situations. Since then, Belgian legislation has been upgraded by the Law of 20 July 2015 aiming to strengthen the fight against terrorism. This law has introduced a new Criminal Code offence (art. 140sexies) targeting anyone who leaves or enters national territory with the intention to commit any of the offences listed in articles 137, 140 to 140quinquies and 141, in Belgium or abroad, with the exception of the offence referred to in article 137, paragraph 3, (6) (threat) of the Criminal Code. The law also puts us in line with our international obligations, in particular with United Nations Security Council Resolution 2178 (2014), adopted on 24 September 2014.

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which aims to counter all individuals who travel to fight abroad for terrorist purposes. This law has also upgraded the Belgian Nationality Code with article 23/02 that specifically addresses the terrorist offences referred to in book II, title Iter of the Criminal Code. Revocation of Belgian nationality is therefore possible for all terrorist offences and not only for those set out in articles 137, 138, 139, 140 and 141 of the Criminal Code, under the conditions set out by law. Lastly, the restriction set out in article 23/1 of the same Code stating that the alleged acts must have been committed within ten years of the date of acquisition of Belgian nationality has been dropped. Previously, article 90ter of the Criminal Code on telephone tapping only applied to the offences referred to in articles 137, 140 and 141 of the Criminal Code. Since the Law of 20 July 2015, telephone tapping is also applicable to all terrorist offences found within title Iter of the Criminal Code.

- The Circular of 7 September 2015 on the national ‘freezing of assets’ contains specific restrictive measures against certain individuals and entities in the fight against terrorist financing. CUTA, on the basis of a series of criteria, creates a list which is sent to financial institutions who in turn proceeds to block certain accounts. Another measure in the fight against terrorist financing is the bank’s obligation to report suspicious transactions to the Financial Intelligence Processing Unit (CTIF). Upon analysis, this information may be disclosed to the public prosecutor, the State Security, the General Intelligence and Security Service, CUTA, etc. The CTIF may also temporarily block certain operations, and prosecution may also seize funds.

- The Law of 10 August 2015 amending the law of 19 July 1991 on population registers, identity cards, foreign cards and residence documents and amending the law of 8 August 1983 organising a national register of natural persons37 gives CUTA freedom to send a reasoned opinion to the Minister of Home Affairs if it considers that the issuance of a Belgian identity card should be denied, withdrawn or invalidated under two circumstances: firstly, if there is well-founded and serious evidence that this person intends to go to a territory occupied by active terrorist groups, as defined in article 139 of the Criminal Code, thus creating the risk that this person may pose a serious threat to commit a terrorist offence upon their return to Belgium as defined in article 137 of the Criminal Code, and secondly, if this person intends to commit terrorist offences outside national territory as defined in article 137 of the Criminal Code. This reasoned opinion is made upon consultation with federal or public prosecutors who are competent to assess whether the refusal, withdrawal or invalidation of the identity card may compromise the application of the criminal procedure.

- The July 2016 Circular on hate preachers provides technical agreements in view of identifying hate preachers and taking measures to counter them. The main aim of this circular is to prevent hate preachers from being active by prohibiting their access to and distancing them from the territory, by disrupting their activities via judicial or

administrative measures, or by making them stop altogether. The main aspects in this area are the protection of public safety against potential threats and the disruption of activities of a threatening nature by hate preachers.

• The **Law of 27 April 2016 on additional measures in the fight against terrorism** enforces search warrants to be effective at night. As a general rule, it is forbidden to carry out a search, a deprivation of liberty or a house visit in a place not accessible to the public before five o’clock in the morning and after nine o’clock in the evening, with some exceptions. Under this law, terrorist offences form part of these exceptions. This law also establishes the legal basis for common data banks, in particular for police and intelligence services, and it allows for easier interception of telecommunications in the case of violation of the law on weapons.

• The **Law of 3 August 2016 adding various provisions to the fight against terrorism (III)** extends the scope of public incitement to commit a terrorist offence and of terrorist recruitment for targeting terrorist trips. It also extends the extraterritorial jurisdiction of Belgian courts to target the whole title I of the Criminal Code. Similarly, federal prosecution’s jurisdiction is clarified to specifically target terrorist offences. Lastly, in terms of preventive detention, there is a loosening of criteria for pre-trial detention of persons charged with certain terrorist offences.

• The **Law of 14 December 2016 amending the Criminal Code regarding the suppression of terrorism** amends the wording of article 140 of the Criminal Code in order to clearly state that a person is punishable from the moment they knew or ought to have known that their participation could contribute to the commission of a terrorist offence.

• Article 141 of the Criminal Code on terrorist financing is replaced with a new provision incriminating preparatory acts to the commission of a terrorist attack.

• A new article 458ter was added to the Criminal Code, allowing a professional person holding secrets and concerned about the serious possibility of the commission of a terrorist offence, including a radicalisation process or a departure to fight in countries in conflict (such as Syria), to inform federal prosecution and/or the investigating magistrate if a file is open, or the Mayor of the relevant municipality. In fact, it is the latter who may then act through the Local Integrated Security Cell (CSIL) and link information regarding the relevant person.


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38 Law of 27 April 2016 on additional measures in the fight against terrorism, Belgian Official Gazette of 09 May 2016.
39 Law of 3 August 2016 adding various provisions to the fight against terrorism (III), Belgian Official Gazette of 11 Augustus 2016.
41 Law of 6 July 2017 simplifying, harmonising, automating and modernising provisions of civil law and civil procedure, as well as notaries, relating to various justice measures, Belgian Official Gazette of 24 July 2017.

2B. National legislation connected to terrorism and/or violent extremism issues implemented in our country

In this section, we shall discuss in detail the current criminal offences, territorial jurisdiction, particular methods of investigation, searches, pre-trial detention, deprivation of nationality as well as victim protection.

Criminal offences

Articles 137 and 138 of the Criminal Code relate to terrorist offences and the applicable sentences.

The definition may be found in article 137, § 1, of the Criminal Code. For an offence to be considered a terrorist offence, three elements are required:

1°) a material element

Material acts (i.e. behaviour which may be considered as a terrorist offence), are listed by law (art. 137, § 2 and 3 of the Criminal Code). Such acts are either offences that already exist in the Criminal Code, or new offences which are acts that are not punished, or not sufficiently punished, by ordinary law.

The basic idea of the 2002 Framework Decision was to consider as terrorist offences those ordinary law offences which qualify as terrorist offences when committed under certain conditions. For example, homicide (article 393 of the Criminal Code) or voluntary assault and battery (article 398 of the Criminal Code) are ordinary law offences which are considered terrorist offences when committed under the conditions referred to in article 137, § 1 of the Criminal Code.

There are other examples: hostage-taking, kidnapping, destruction or massive degradation of certain targets (bridges or buildings), of means of transport (car, boats) or computer systems, or even the seizure of aircrafts and ships.

Other offences which are solely punishable as terrorist offences (because they are not covered, or at least not sufficiently, by ordinary law), include the capture of means of transport other than aircrafts or ships, a series of acts involving nuclear, biological or chemical weapons and certain attacks on infrastructure or on key resources that endanger human lives or that produce substantial economic loss.

The threat of committing one of these offences is also punishable.
The attempt to commit a terrorist offence that constitutes a crime is also punishable. In criminal law, the attempt to commit a crime is always punishable whereas the attempt to commit an offence is punishable only if provided for by law.

2°) a contextual element of a certain severity

To qualify as terrorist offences, the various aforementioned acts must be of a certain severity. That is to say that these offences, by their very nature or context, must have the capacity to seriously jeopardise a country or an international organisation.

The idea was to have an additional objective element that allows the judge to assess the seriousness of the committed offences. The word “context” is taken as it is from the Framework Decision. This word enables us to take into account not only the nature of the offence, but also its impact on the organisation and management of a country.

It is up to the courts and tribunals to assess whether the act has seriously jeopardised a country or an international organisation, in the context in which the offence has been committed and on a case by case basis.42

3°) a moral element, that is the intent to commit an offence

Terrorist offences are intentional offences that require particular criminal intent by the individual having committed the act. The latter must have committed the act voluntarily and for a specific purpose: with the intention of seriously intimidating a population or unduly compelling a public entity or an international organisation to do or to refrain from doing an act, or of seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

Article 138 of the Criminal Code sets the applicable sentences for terrorist offences of article 137 of the Criminal Code.

For existing offences (137, § 2 of the Criminal Code), more serious penalties apply than those of ordinary law offences. For example, if an ordinary law offence is punishable by a fine, when in a terrorist context, that same offence becomes punishable by a 1 to 3 year prison sentence. A 6 month maximum prison sentence is replaced by a 3 year maximum prison sentence etc., up until a 20 to 30 year imprisonment, which is replaced by life imprisonment.

Regarding offences that do not correspond to ordinary law offences (137, § 3 of the Criminal Code), sentences are of a criminal nature (15-20 years in prison, or a life sentence).

For threats, the law provides for imprisonment of between 3 months and 5 years if the threat is a punishable criminal offence via correctional sentence (8 days to 5 years) and imprisonment from 5 to 10 years if the threat is a punishable criminal offence via criminal sentence (minimum 5 years imprisonment up to a life sentence at most).

42 Board of Representatives, Bill relating to terrorist offences, DOC 51-258/4, p.14.
Offences relating to terrorist groups (participation and management) are explained in articles 139 and 140 of the Criminal Code.

Terrorist groups are defined in article 139 of the Criminal Code as ‘associations made up of more than two persons, established over time, and which act in a concerted manner to commit the terrorist offences referred to in article 137.’ As for criminal organisations, organisations whose real aim is exclusively political, Trade Union related, philanthropic, philosophical, religious, or organisations that exclusively follow other legitimate goals, are not considered terrorist groups.

Article 140 of the Criminal Code punishes two types of involvement in terrorist groups: participation in the activities of the terrorist group on the one hand, and management of the group on the other. For examples of participation, the Criminal Code cites the provision of information or of material means to the terrorist group, or any form of financing of terrorist group activity.

Those who participate in the activities of the group who knew or ought to have known that such participation could contribute to the commission of a crime or an offence by the terrorist group are also punished. Simply being aware of such a possibility is enough, namely that the person knew or reasonably ought to have known what the consequences of their actions were, or what they might have been.

The type and the occasional or systematic nature of the contribution are not taken into account, but the person must have provided assistance in full knowledge of the facts. Participating in the activities of a terrorist group is committing an act which allows or may allow a terrorist group to function. It is enough that there was simply a possibility that the participation may have contributed to the offence. Therefore, it is not even necessary to participate in a terrorist offence, or in any punishable offence committed by the terrorist group. It is not even necessary to have committed or planned to commit a terrorist offence. In case law, all assistance granted to a terrorist group is punishable, whatever its nature, provided that the assisting person knew of the terrorist nature of the organisation. A person who consciously helps such an organisation will inevitably want their help to be of use to the terrorist group, even should such assistance by its very nature be of little importance.

The leadership of a terrorist group is also punishable. We are referring to those who assume the main responsibilities within the group, who play a central role in the organisation: those who are aware of the offences and who make the final decisions.

Participation is punishable by imprisonment of 5 to 10 years and by a fine, while leadership of a terrorist group is punishable by imprisonment of 15 to 20 years and by a fine. It should be noted that in practice however, after negotiation of the charges, participation is punishable by a maximum of 5 years and a maximum of 15 years for management. The criminal fines must be increased by ‘additional decimals’. Essentially, this means that the total criminal and administrative fines provided for by law should be multiplied by 8 (from the 1st January 2017).
Article 141 of the Criminal Code incriminates assistance, notably financial assistance, for the commission of a terrorist offence committed independently of any terrorist group. We are not referring to the support given to a group, but rather the support for the commission of a terrorist offence which may be committed independently of any terrorist group. Thus, a person who provides material means is punishable, as soon as they know or ought to have known that these means are intended for the commission of a terrorist offence. Therefore, it is not necessary that these means are actually used. Other than the verb ‘provide’43, the article explicitly uses the verb ‘collect’, and states that the providing or collecting may be done ‘directly or indirectly’.

Some offences are part of a more preventive approach:

- **Article 140bis of the Criminal Code: direct or indirect public incitement to commit a terrorist offence.**

  The aim of direct incitement is for a determined offence to be committed, whereas the aim of indirect incitement is not directed towards a determined act being committed.

  The scope of this provision was extended in two ways by the Law of 3 August 2016; by making the incentive to travel abroad for terrorist purposes punishable, and by removing one of the building blocks of the existing offence, that is, the need for the incentive to lead to the risk of commission of one or more terrorist offences.

- **Article 140ter of the Criminal Code: terrorist recruitment.**

  This offence has also been extended to travelling abroad for terrorist purposes by the 2016 Law.

- **Article 140quater of the Criminal Code: terrorist training.**

  This offence punishes those who give instructions or training for the manufacturing or use of explosives, firearms or other weapons or noxious or dangerous substances, or for other specific methods and techniques, with a view to committing one of the mentioned offences.

- **Article 140quinquies of the Criminal Code: receiving terrorist training in Belgium or abroad.**

  Those who undergo training or a training session referred to in article 140quater shall be punished.

- **Article 140sexies of the Criminal Code: travel for terrorist purposes.**

  In recent years, the terrorist threat posed by individuals who have been abroad by taking part in the activities of terrorist groups has increased.

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43 Translator’s note: ‘(…) any person who by any means, directly or indirectly, provides or collects material means, including financial assistance, with the intention that they should be used or in the knowledge that they are to be used, in full or in part (…)’ (art. 141 of the Criminal Code).
To combat this phenomenon more effectively, article 140sexies of the Criminal Code punishes anyone who leaves or enters national territory with the intention to commit a terrorist attack or other crimes explained previously, in Belgium or abroad.

The criminal intent of the accused shall determine if the alleged action is illegal. It shall be up to the judge to determine this intent, based on the evidence and the facts of the case.

The new article 140sexies of the Criminal Code specifically targets the ‘Lone Wolves’ who move to another State without being part of a terrorist group. This is the case, for instance, of someone who leaves to enter jihadi areas of conflict with a clear terrorist intent, but without necessarily having decided to join any particular terrorist group.

Some common points regarding these ‘preventive’ charges:

- They apply without prejudice to the application of article 140 of the Criminal Code, i.e. that the adoption of these three new charges does not halt the application of article 140 of the Criminal Code (participation or management of a terrorist group).
- Behaviour shall be punished regardless of whether the terrorist offence has been committed or not. Insofar as the purpose is to prevent a harmful result, it is not necessary that a terrorist offence be actually committed.
- The threat to commit one of these offences is not criminalised, whether it is the threat of public incitement, the threat to train or the threat to recruit with a view of committing one or more terrorist offences.
- These new offences are punished in the same sentence scale, namely imprisonment of 5 to 10 years and a fine of €100 to €5000 (to be multiplied by 8).
- Article 140septies of the Criminal Code: criminalisation of preparatory acts.

Article 140 of the Criminal Code on participation in the activities of a terrorist group can now be interpreted in a broad sense, and includes acts with the intention to prepare the commission of a terrorist offence, but this presumes the existence of a terrorist group. However, in the case of ‘Lone Wolves’ who prepare a terrorist offence alone and without participating in the activities of a terrorist group, the new article 140septies of the Criminal Code also incriminates this preparatory act, so that it is also possible to intervene before the start of execution of the terrorist offence and thus avoid the harmful result.

Articles 141bis and 141ter of the Criminal Code are specific articles relating to international humanitarian law and to the respect of human rights.

Article 141bis of the Criminal Code is rooted in the Framework Decision recital, but also from the United Nations Convention on the fight against terrorism. It provides that activities of the armed forces in times of armed conflict as defined and governed by international humanitarian law, and activities carried out by the armed forces of a State in the exercise of their official duties are excluded from the scope of terrorist offences, if they are governed by other international laws.
The purpose of this provision is to avoid the overlapping of two standards: those of international humanitarian law, on the one hand, and the criminal provisions applicable independently of any armed conflict, on the other. For wrongdoing committed by armed forces in times of armed conflict, international humanitarian law shall apply.

Article 141ter of the Criminal Code notes that provisions on terrorist offences do not intend in any way to reduce or interfere with the rights and freedoms enshrined in the European Convention of Human Rights. Our country wanted to show its respect for the protective provisions of the rights and fundamental freedoms by adding a particular provision in the Criminal Code which also uses a recital of the 2002 Framework Decision.

**Off-shore competence**

Belgian jurisdictions are qualified to pursue terrorist infringements committed outside the territory if:

- the infringement was committed by a Belgian or a person with primary residence on the territory (article 6, 1° ter of the Preliminary Title of the Code of Criminal Procedure);
- it was made against a Belgian national or institution, or a European Union institution or an organisation based in Belgium (article 10ter, 4° of the Preliminary Title of the Code of Criminal Procedure).

Any person who commits a terrorist offence referred to in article 137 of the Criminal Code made abroad may be pursued in Belgium, even if they are not found in Belgium (art. 12 of the Preliminary Title of the Code of Criminal Procedure). For other offences, the person must be found in Belgium.

**Particular methods of investigation**

Specific methods of investigation such as telephone tapping are applicable to all terrorist offences. Before 2015, only the 2003 Law offences were subject to this. Since 2016, all terrorist offences and future offences whose definitions which will be created in time are subject to these methods.

Article 39bis of the Code of Criminal Procedure, as modified by the Law of 25 December 2016, constitutes the legal basis for non-secret research of information systems.

This article provides the procedure for search and seizing computer data contained within information systems. In cases of extreme urgency and if these cases clearly relate to an offence listed in articles 137, § 3, 6° or 140bis of the Criminal Code, the public prosecutor may verbally order to take all suitable measures to make the data to which the offence relates or which has been produced by the offence and which goes against public order or morality inaccessible. This order is confirmed in writing as soon as possible, while giving reasons for the extreme urgency.

This new provision makes it possible to react quickly, without the action of blocking internet sites being an exclusive competence of the police services.
**Searching 24/7**

The Law of 27 April 27 2016\(^{44}\) enables searches to occur 24/7. In the interest of providing the authorities with additional means in the fight against terrorist offences and serious criminal offences with use of weapons, explosives and dangerous substances, the exceptions to the prohibition of carrying out a search, a deprivation of liberty or a house search in a place which is not accessible to the public, before five o’clock in the morning and after nine o’clock at night, have been extended to cases in which the search and the deprivation of liberty involve these types of offences.

**Preventive detention**

The Law of 3 August 2016\(^{45}\) softens the criteria to allow preventive detention as regards terrorism by enforcing the criteria applicable to offences punishable by more than 15 years in prison to the majority of terrorist offences punishable by more than 5 years' imprisonment.

**Deprivation of nationality**

The Law of 20 July 2015\(^{46}\) inserts article 23/2 of the Belgian Nationality Code and specifically relates to the terrorist offences referred to in book II, first title of the Criminal Code. Deprivation of Belgian nationality is therefore possible for all terrorist offences, and not only for those provided for in articles 137, 138, 139, 140 and 141 of the Criminal Code, under the conditions laid down by law. Lastly, the restriction provided in article 23/1 of the Code, which states that the alleged acts must have been committed within ten years of the date of obtaining of Belgian nationality, has been dropped.

**Victim Protection**

Victims of terrorist acts can lodge a compensation request to the Commission for financial assistance to victims of acts of deliberate violence, governed by section II of the Law of 1 August 1985, as amended by the Laws of 22 April 2003 and of 31 May 2016. It is to be noted that this Commission is qualified to rule on requests for financial assistance for all victims of intentional acts of violence, and not only for acts of terrorism.

The Law of May 31, 2016 amending the Law of 1 August 1985 on fiscal and other measures, relating to the assistance to victims of acts of deliberate violence\(^{47}\) enables the King to extend the compensation to victims of acts of terrorism, and to adapt the obligations of those entitled to compensation by keeping track of the relevant terroristic characteristics.

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\(^{44}\) Law of April 27, 2016 on additional measures in the fight against terrorism, Belgian Official Gazette of 09 May 2016.

\(^{45}\) Law of 3 August 2016 adding various provisions to the fight against terrorism (III), Belgian Official Gazette of 11 Augustus 2016.

\(^{46}\) Law of 20 July 2015 strengthening the fight against terrorism, Belgian Official Gazette of 05 Augustus 2015.

\(^{47}\) Law of 31 May 2016 amending the Law of 1 August 1985 on fiscal and other measures, relating to the assistance to victims of acts of deliberate violence, Belgian Official Gazette of 10 June 2016.
Within this framework, several royal decrees have been adopted to allow for Belgians or people with ordinary residence in Belgium who are victims of acts of terrorism committed abroad to claim financial intervention, provided that at the time of the terrorist act, the victim has Belgian nationality or ordinary residence in Belgium:

- The Royal Decree of 16 February 2017 on the procedure according to which the King may proceed to acknowledge an act of terrorism within the meaning of article 42bis of the Law of 1 August 1985,
- The Royal Decree of 16 February 2017 on the execution of article 42bis of the Law of 1 August 1985 with regard to State Aid to victims of terrorism. To enable quicker financial assistance to the victims of terrorism, a certain number of given conditions no longer need to be satisfied. Financial support is also available for Belgians or people with current residence in Belgium who are victims of acts of terrorism committed abroad, and for this, there is no obligation to obtain a final court order.
- The Royal Decree of 16 February 2017 amending the Royal Decree of 18 December 1986 relating to the Commission for financial assistance to victims of acts of deliberate violence and for occasional rescuers. This decree increases the maximum amounts for the victims. The Commission has been broadened in order to allow for quicker processing of the requests, and, for the same reasons, the Commission’s secretariat has also been extended.
- The Royal Decree of 15 March 2017 acknowledging certain acts as acts of terrorism within the meaning of article 42bis of the Law of 1 August 1985. This Royal Decree lists certain acts recognised as acts of terrorism, to enable the victims of such acts or their close ones to benefit from support, more specifically financial support.

2C. National legislation connected to the specific need of juveniles (under 18) suspected or accused of violent extremism or terrorism

First of all, it is important to specify that our system has undergone – and is still undergoing – significant changes between 2014 and 2018. In the past few years, different legislation and reforms were indeed implemented, radically changing the organisation of the treatment for minors by the justice system. In addition, the orientation of the minor in the justice system actually depends on the nature of the facts.

A minor suspected or accused of terrorism or violent radicalism may, depending on the circumstances, be seen and therefore be treated either as a minor who has committed an offence, or as a minor in danger. Both options imply different treatment, as described below.

48 Royal Decree of 16 February 16, 2017 on the procedure according to which the King may proceed to acknowledge an act of terrorism within the meaning of the article 42bis of the Law of 1 August 1985, Belgian Official Gazette of 03 March 2017.
49 Royal Decree of 16 February 2017 on the execution of article 42bis of the Law of 1 August 1985 with regard to State Aid to victims of terrorism, Belgian Official Gazette of 03 March 2017.
50 Royal Decree of 16 February 2017 amending the Royal Decree of 18 December 1986 relating to the Commission for financial assistance to victims of acts of deliberate violence and for occasional rescuers, Belgian Official Gazette of 03 March 2017.
Institutional reforms

First and foremost, it is important to note that the issues concerning minors and justice (and also minors suspected or accused of violent extremism or terrorism) fall within the competence of the Federal State, but also of the Communities (Flemish Community, Wallonia-Brussels Federation, and the German Community).

At the federal level, the Law of 8 April 1965 on the protection of young persons, the treatment of minors who have committed an act deemed to constitute an offence and reparation for damage caused thereby, outlines the rules of procedure in that regard (see hereafter). The law was reformed in 2006 to address reparation and parental responsibility, to widen the measures at the disposal of the public prosecutor’s office and the juvenile court judge, and to reduce the use of placement. The Special Law of 6 January 2014 on the Sixth Reform of the State provides for the transfer of the following competences to the different Communities:

• definition of the nature of the measures that can be taken with regard to minors who have committed an act defined as an offence (purpose, criteria and conditions, duration, extension, revision, hierarchy of the measures, organisation of the services);
• rules for declining the jurisdiction;
• rules for placement in a closed institution;
• the closed institutions, according to modalities that have to be determined.

The Communities are currently in the process of finalising their own legislation. Therefore, it is always the Law of 1965 which applies and which will be explained below.

On 14 July 2017, the Flemish Government provisionally approved a draft decree on juvenile delinquency, which has reformed the way for dealing with offences committed by minors.

With regards to the French Community, it was decided to create a single decree aimed at strengthening the prevention policy for youths and their families, to improve the relevant rules relating to aid – consented or imposed - for children in difficulty or in danger, and to apply this new jurisdiction to young people who have committed a deemed offence.

Minors who have committed an act deemed to constitute an offence such as violent extremism or terrorism

General rules

The Law of 8 April 1965 organises the rules of procedure concerning minors who have committed an act deemed to constitute an offence, whereas the Communities are competent for their execution and arrangements decided upon by the judge specialised in juvenile affairs.

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A minor referred to the Juvenile Court can be subjected to ‘measures concerning custody, safeguarding and education’. No criminal punishment can be pronounced against them. The Juvenile Court then carries out, at the request of the public prosecutor, pertinent investigations in order to evaluate the personality of the person concerned, their educational background, their interests and the appropriate new course of education or treatment. During this period, provisional custody measures may be ordered by the Court. This preparatory phase is limited to six months, at the end of which their file is forwarded to the Tribunal by the Prosecutor. Based on the results of the investigation, the juvenile court judge may impose provisional custody measures regarding the minor.

If the minor committed the act before the age of twelve, the judge specialised in juvenile affairs can reprimand him or her or impose a follow-up organised by the competent social service. That service is dependent on the Communities and is attached to each court specialised in juvenile affairs.

If the minor is older than the age of twelve, the law provides for a certain number of measures. Preference has to be given first to a restorative offer. Currently, it is possible to impose that minors should carry out educational community services, to allow them to stay in their living environment if they commit to one or more conditions, to entrust them to a trustworthy person or to a public community institution for the protection of young persons.

The minor who has committed an act deemed to constitute an offence always appears before the judge specialised in juvenile affairs and not before a criminal court.

**Exception**

An exception to the above rules is possible in case of **declining of jurisdiction**. In exceptional cases, minors aged sixteen years or over who commit a serious act or who have already been subjected to measures, can be referred to another jurisdiction. The minor will be judged as an adult, either by a specific chamber of the Juvenile Court, composed of two juvenile judges and one correctional judge (two of these three magistrates who make up the chamber must have participated in specialised training organised by the Institute for Judicial Training to treat the ‘juvenile cases’).

The judge cannot decline jurisdiction unless all of the following conditions are fulfilled: the minor has already been subject to measures for the protection of young persons previously and the acts that are attributed to them represent a certain gravity as listed: murder, assassination or the attempt to commit one of these latter offences, assault and battery that has led to incapacity for work or an incurable illness or the absolute loss of the use of an organ or a serious mutilation, assault and battery that has led to death without the intention to cause it, torture, infliction of inhuman treatment, or theft committed with violence or threats. In the Communities’ new legal drafts, serious violations of international humanitarian law and terrorism-related charges have been inserted in the list.

Moreover, the French Community draft provides that the Court may decline jurisdiction without having to respect the condition that the minor must have already been imposed,
if the young person does not cooperate with the provisional measures, or fails to do so, or if the Court considers a protection measure to be manifestly inadequate. In addition, once the young person reaches the age of twenty at the time of judgment, the Court may decline jurisdiction solely based on the paragraph relating to offences. In the Flemish Community draft, the Court may decline jurisdiction without having to respect the condition that the minor must have already been imposed, if the acts are serious violations of international humanitarian law or relate to terrorism, and if they would normally be punished with a prison sentence of five to ten years or with a heavier sentence had they been committed by an adult.

The judge has to request a social inquiry and a medico-psychological examination before declining jurisdiction and has to render a reasoned decision concerning the personality of the young person and their circle of family and friends and concerning their degree of maturity.

The Flemish Community draft provides for three scenarios in which the court can decline jurisdiction in the absence of investigative measures:

- when the person concerned eludes the medico-psychological examination or refuses to submit to it (in that scenario, the social inquiry has to be carried out anyway because the young person does not have to be present for it to take place);
- in case of a ‘repeat offence’, i.e. when the minor has already been subjected to a measure through a judgment. The minor must have committed the acts when he/she was over sixteen years of age and he/she must have committed new, similar acts after their first conviction;
- in the case of young persons aged over 18 who have been prosecuted for a crime punished with imprisonment of more than twenty years that they committed when they were more than 16 years old, the specialist in juvenile affairs court does not require either a social inquiry, or medico-psychological expertise.

The French Community draft adopted the first exception in the draft decree of the Flemish community, and enforced the second exception by stating that the Court may decline jurisdiction of a case without having the social study and the medical and psychological examination if it relates to a deemed punishable crime with a sentence of over twenty years imprisonment, and if the young person is only prosecuted after having reached the age of eighteen.

**Minors suspected or accused of terrorism or violent radicalism**

Specifically with regard to minors suspected or accused of terrorist acts or violent radicalism, the Flemish Community draft directs its approach in the following way:

The criminal history and support of minors known for violent radicalism, whether or not they have been convicted of a terrorist offence, must be included in the disengagement process. In line with the guidelines issued by the College of Principal Public Prosecutors, juvenile Foreign Terrorist Fighters (FTF) are either regarded as being in a situation of danger given their age and the circumstances, or as young people who have committed
an act qualified as an offence. Based on the concrete analysis of the minor’s file, the prosecutor can apply for a court decision or refer the minor to the competent youth protection institutions to take part in a voluntary youth assistance programme.

An at risk FTF minor can benefit from an aid measure imposed by the Juvenile Court. The juvenile judge has access to various youth assistance modules, ranging from home visits or orientation, or lastly, placement in a foster family, a private reception centre or a Community institution. The provision of and access to all sectors of youth assistance is regulated by the Decree of 12 July 2013 relating to integral youth assistance. The legal position of the minor in relation to youth assistance is regulated in the Decree of 7 May 2004 on minor status.

For FTF minors who have committed an act qualified as an offence, the prosecutor may require youth protection measures. These are governed by the Law of 8 April 1965. Here also, various measures are possible on the basis of concrete analysis, ranging from a restorative offer to detention in a Community institution. The Flemish Community, in particular the Flemish Agency for Youth Protection, is responsible for the implementation of the measure imposed. These measures are organised by youth assistance institutions and organisations. As explained earlier, in exceptional circumstances involving young people over 16 years old who have committed a crime, these institutions and organisations can be released from their responsibility and the minors can be subjected to criminal law for adults.

The Juvenile Court relies on the social services of the court, organised by the Flemish Agency for Youth Protection, for guidance and follow-up of youth protection measures. An expert on radicalisation has been designated within the social services. Regarding reception in Community institutions under a closed regime, as a last resort solution, the Flemish Agency for Youth Protection published its service instructions on July 1, 2014, on work arrangements relating to the treatment of FTF minors.

Flanders continues its efforts to improve expertise between youth protection professionals, and health and care professionals in general, in order to strengthen teams supporting ethnic minorities and to give particular attention to culture and trauma focused care, to family support and youth context, as well as to the philosophical dimension of disengagement processes.

In the French Community, the legal and regulatory framework governing youth assistance has the necessary tools and measures for the treatment of children placed at risk by their own violent radicalisation or by that of their surroundings. The effectiveness of this treatment does not require derogatory measures.

In practice, specific measures have been taken by the General Administration for Youth Assistance (AGAJ) of the Wallonia-Brussels Federation Ministry.

- Designation of referents
Since the beginning of 2015, radicalism referents have been designated to public services (the Youth Support Services (SAJ), the Judicial Youth Protection service (SPJ), the Public Youth Protection Institute and the Support (IPPJ), Intensive Mobilisation and Observation Services (SAMIO)). The latter have benefited mostly from
the information and awareness sessions on the phenomenon of violent radicalisation. Their aim is to provide support to their colleagues in charge of records relating to occurrences of violent radicalisation. Thus, they must know which network they can reach out to.

• Transfers of information in case of concerns or alleged acts relating to the issue of violent radicalisation
Since 1 January 2015, IPPJ and SAMIO have followed an information procedure where the information has to be transferred to the General Administration for Youth Assistance (AGAJ), as well as to the juvenile judge in case of concern during the treatment of the young person. This procedure is to be formalised by an administrative circular.

• Treatment of young persons reported or prosecuted within IPPJ and by SAMIO
The educational project of these services is suitable, in principle, for the treatment of the young persons concerned. If need be, the AGAJ may request the intervention of an expert or of a service specialising in the analysis of dangerous situations and/or in support of traumatised youths. The same applies at the level of SAJ, SPJ and accredited services.

• Awareness and information of youth assistance staff.

Rights of minors

Throughout the procedure, minors benefit from different means of protection: they must, amongst other rights, be assisted by a lawyer (article 54bis of the Law of 8 April 1965) and must receive a copy of any action or decision taken against them (Article 10 and 61bis of the Law of 8 April 1965).

The Law of 21 November 2016 on certain rights of individuals subject to interrogation\(^{53}\) (Salduz+) significantly changed the legislation on confidential consultations:

• it provides that **minors not deprived of liberty** interrogated on offences punishable with sentences of deprivation of liberty that they may be charged for are entitled to a confidential consultation prior to the interrogation.

• if the hearing takes place on notice and the minor shows up without a lawyer, the duty service (comprising lawyers specialised in youth matters) is contacted in order for the lawyer chosen by the minor to be notified, or for another lawyer to be approached if the first lawyer is unavailable. If this procedure remains unsuccessful, the President of the Bar or his/her delegate shall be contacted. The confidential consultation can thus be held in a local police facility or via telephone.

• if the hearing does **not take place on** written notice or the notice does not state the rights to which the minor is entitled, the same procedure applies, namely: the duty service (comprising lawyers specialised in youth matters) is contacted in order for the

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\(^{53}\) Law of 21 November 2016 on some rights of the people subject to questioning, Belgian Official Gazette of 24 November 2016.
lawyer chosen by the minor to be notified, or for another lawyer to be approached if the first lawyer is unavailable. If this procedure remains unsuccessful, the President of the Bar or his/her delegate shall be contacted. The confidential consultation can thus be held in a local police facility or via telephone. However, the law states that upon request of the lawyer and upon agreement with the minor, the hearing may be postponed one single time to allow the minor to contact another lawyer.

- **Regarding minors deprived of their liberty**, they have a right to a single confidential consultation with the police service, or if this is not possible, with public prosecution or with the investigating judge before the first hearing, and during the 24 hour arrest phase up until a decision to issue an arrest warrant is made and during the period of the arrest warrant. In order to contact a lawyer of his/her choice or another lawyer if this is not possible, contact is always made with the duty service or, this not being possible, with the President of the Bar or his/her delegate. From the moment contact is made with the duty service, the confidential consultation with the lawyer must take place within the following two hours. The consultation may take place via telephone at the request of the lawyer and upon agreement with the minor. The consultation may last thirty minutes and may, in exceptional cases, be extended indefinitely by decision of the interrogator.

If the consultation does not take place within two hours, a confidential consultation via telephone is nevertheless held with the duty service, after which the hearing may begin.

Lastly, if the interrogated minor does not understand or does not speak the language of the proceedings, or if he/she suffers from hearing or speech problems, and if the lawyer does not understand or does not speak the minor’s language, a sworn interpreter is required during the prior confidential consultation with the lawyer.

**Minors at risk**

For minors who are at risk, the Communities also play an important role. Based on the principle of subsidiarity intended by the Belgian legislator, the first-line services are considered to be best positioned to intervene with regard to voluntary social assistance. Therefore, a child at risk or in difficulty is first and foremost oriented towards the support services of the Communities and a number of situations do not need to be seen by the judge specialised in juvenile affairs.

**French and German Communities**

Thus, any person who encounters a difficult situation concerning a minor can report it to the Youth Assistance Adviser who acts at the request of and with the agreement of the young persons and their family in the framework of ‘voluntary assistance’ (or ‘with consent’).

The adviser examines, alongside the delegates of the service, the requests for assistance of the young persons in trouble or at risk, as well as those of the parents who are experiencing difficulties with their parental role. The Youth Assistance Adviser’s assistance

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is a specialised, i.e. subsidiary, assistance. It is granted after the first-line services have confirmed that their intervention is insufficient without putting an end to that intervention. After evaluating the request, the adviser can:

- refer the families to the first-line services;
- accompany the young persons and their families in their process, if necessary;
- coordinate the actions of the services and partners that lend their assistance for the benefit of young persons and their families;
- question any public or private service that is taking care of the young person;
- entrust a young person, with their consent if they are over 14 years old and with their parents’ consent, to an institution or a foster family.

The adviser formalises the assistance programme in a written document that mentions the agreement negotiated with the young person and their family. That assistance programme has a duration of one year, and can be renewed if necessary. It can be modified at any time, either at the initiative of the adviser in the interest of the young person or at the request of the latter or their family. Intermediate assessments are organised. If the persons refuse the adviser’s assistance or do not collaborate and the state of risk has been proven, the adviser informs the public prosecutor who can decide on a more adequate measure and decide that under special conditions the child will temporarily reside outside his/her family and living environment with a view to their treatment, their upbringing, their education, or their professional training, or allow the child, if he/she is over 16 years old, to live in an independent or supervised residence.

### Brussels-Capital Region

In the **Brussels-Capital Region**[^55], the decrees concerning youth assistance of 4 March 1991 (French Community) and 12 July 2013 (Flemish Community) are thus applicable in Brussels, except for the articles concerning the modalities for appeal against compulsory assistance. The young persons and their family are free to turn to the Youth Assistance Adviser or the request committee.

Concerning the intervention of the court specialised in juvenile affairs, the public prosecutor is obliged to verify that the following conditions are fulfilled before submitting the case before the court:

- the young person’s health or security is currently severely compromised because of their own behaviour or because of behaviours of which they are allegedly a victim;
- the failure of voluntary assistance. It is therefore essential that all cases of a young person with family difficulties are first referred to the Youth Assistance Adviser or the Youth Assistance Centre.

If the conditions for submission are fulfilled, the public prosecutor can thus submit the case to the judge specialised in juvenile affairs and a provisional phase is initiated. As provided, the judge can take one or several compulsory pedagogical measures:

[^55]: Ordinance of 29 April 2004 issued by the Common Community Commission of the Brussels-Capital Region on assistance to young people, Belgian Official Gazette of 1 June 2004, entered into force on 1 October 2009.
• to give pedagogical instructions to the persons who have the parental authority over the minor or the custody of the minor;
• to submit the young person to the surveillance of the competent social service by possibly imposing the following conditions:
  a. to attend classes regularly in a school;
  b. to follow the educational or medical instructions of an educational guidance or mental health centre;
  c. to regularly speak to the competent social worker;
  d. to order family, psychosocial, educational and/or therapeutic guidance for the young person, their circle of family and/or friends;
  e. to impose an educational project on the young person or their circle of family or friends;
  f. to order that the young person goes to a semi-residential service;
  g. to allow the young person, if they are over 16 years of age, to live in an independent or supervised residence and to be registered in the population register of the place of that residence;
  h. in case of emergency, to place the young person in a reception centre;
  i. to place the young person in a centre for observation and/or orientation;
  j. to place the young person in a family or with a trustworthy person;
  k. to decide, in exceptional situations, that the child will temporarily reside in an appropriate open institution with a view to their treatment, their upbringing, their education, or their professional training.

Flemish Community

In the Flemish Community\textsuperscript{56}, the OCJ (Ondersteuningscentrum Jeugdzorg) centre evaluates the necessity for assistance to be granted to a minor and their circle of family and friends, takes orientative measures, organises that assistance with their consent and proceeds to the regular evaluation of the measures taken. The support centre refers the minor to the public prosecutor’s office if they or their circle of family and friends do not accept any appropriate youth assistance service and if they refuse to cooperate with the examination of the situation of the minor. The court and the judge specialised in juvenile affairs can take measures in favour of maintaining the young person at home (pedagogical instructions, surveillance or guidance by a social service, educational project, home visits) or measures of removal, if necessary (independence of the young person, placement in a foster family, in an open or closed institution...). The social service for the judicial youth assistance services ensures the execution of the judicial measures imposed by the court or the judge.

\textsuperscript{56} Decree of 12 July 2013 relating to integral youth assistance, Belgian Official Gazette of 13 September 2013.
2D. National policy and strategies connected to the terrorism issue implemented in our country

As we have already mentioned, Belgium believes that the fight against terrorism is fundamental, and strives to obtain all relevant means to prevent and effectively pursue terrorist acts. This battle is being fought while respecting human rights and the rule of law. Belgium has implemented not only a coherent and effective approach involving all concerned entities, be it at the level of the Federal State or that of federal bodies, but one which hinges upon a political, legal and institutional framework, and upon provisions aiming to improve international cooperation.

Please refer to point 1.C.

2E. Preventive programmes or alternative measures for juveniles in order to counter terrorism in our country

At the federal level, many initiatives have been developed by the Home Affairs FPS, but also by the Communities, Regions and municipalities.

**AT THE FEDERAL LEVEL**

Thus, as we have already mentioned, the Federal Government launched ‘Plan R’ (Radicalism Action Plan) in early 2015 in order to combat radicalism. Several federate entities, among which the Home Affairs FPS, and more specifically the Directorate General for Security and Prevention (DGSP), have since been in charge of the ‘radicalism’ files in order to promote a comprehensive and integrated approach to this phenomenon.

It is in this context that three projects for the prevention of radicalisation were initiated. These are financed by the European Union and managed within the DGSP, and are known as the Bounce, Family Support and Mobile team projects. Another project supported by the Minister of Home Affairs is known as ‘gender mainstreaming’. Moreover, the DGSP is also in charge of helping municipalities in the implementation of the Local Integrated Security Cells (CSIL) already mentioned above, i.e. the local communal dialogue platforms which are essential for the correct implementation of Plan R. Lastly, the Directorate General for Security and Prevention also provides financial support to various Belgian cities and municipalities, with the ‘Impulse’ allowance having been granted to 15 Belgian cities which have had to deal with the issue of radicalisation more so than other cities.

**BOUNCE**

BOUNCE is a European project funded by the European Commission. Between January 2013 and January 2015, the ‘Strengthening Resilience against Violent Radicalisation (STRESAVORIA)’ project was initiated to develop training for early psychophysical prevention, to help vulnerable young people in strengthening their resilience when faced with radical influences, and to raise awareness of their social environment. On the basis
of scientific research, three complementary and interconnected training and awareness tools aimed at young people and their social environment were established:

- **BOUNCE young**\(^{57}\) is a resilience training programme for youths. Healthy and strong resilience is a proven protective factor in the prevention of violent radicalisation. In ten (inter)active group trainings, youngsters train and strengthen different aspects of their resilience. Through a mix of action and reflection, a wide range of skills and competences are strengthened, practised and linked to their personal experiences. The young people learn to bounce back and bounce up when dealing with challenges. In the training sessions, they make the link between the work forms and their personal experiences. A BOUNCE young training is always used in combination with BOUNCE along awareness-raising actions for parents and front-line workers.

- **BOUNCE along**\(^{58}\) is an awareness-raising tool for parents and front-line workers. The tool provides tips, insights and practical exercises for adults in the social environment of the young people. It assists them and strengthens their role in the early prevention of violent radicalisation. BOUNCE along treats five topics: ‘a positive point of view’, ‘strengthening resilience’, ‘resilient relations and communication’, ‘concerns and challenging situations’, and ‘information and influence’. BOUNCE along focuses on all parents and front-line workers, and can be used in combination with the BOUNCE young resilience training for the young people.

- **BOUNCE up**\(^{59}\) is a train-the-trainer tool for front-line workers. This tool instructs them in working with the BOUNCE young resilience training programme and the BOUNCE along awareness-raising tool. By combining both tools, the trainer can become an important supporting figure in the early and positive prevention of violent radicalisation. Trainers assist the young people as well as their social environment and set up an integrated and integral approach, tailored to the needs of the target groups.

These tools respond positively to the challenge posed by the prevention of violent radicalisation at an early age. BOUNCE tools have been designed to apply as preventive measures from the moment, or better yet before, the problems posed by violent radicalisation begin to appear.

The second phase of the BOUNCE project, launched at the end of 2015, ends in March 2018. In collaboration with European partners (the European Forum for Urban Security - FESU and RadarEurope - a Dutch training organisation), the Home Affairs FPS chose ten pilot cities from 5 European Union Member States (Belgium, Germany, Netherlands, Sweden, France) to organise BOUNCE training for front-line players. Emphasis is also placed on the development of a European network of resilience trainers in view of implementation at the local level. The idea is to allow for the exchange of expertise, good practices and challenges to which these European trainers are faced. In addition to spreading these tools, this phase of the project also aims to assess the impact of resilience training in the short, medium and long term.

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**Family Support**

The Family Support project (funded by the European Commission) aims to combat violent radicalisation in Belgium by supporting families affected by the radicalisation or possible radicalisation of their young ones.

Families play an important role in the fight against radicalisation. Often, family members are the first to notice signs of radicalisation in their young ones. They can be a springboard for youngsters who are in doubt or who are disillusioned. Moreover, families can play an important role in the reintegration and rehabilitation of those returning from areas of conflict.

In view of the currently fragmented policy concerning support initiatives to families affected by radicalisation in Belgium, such families find it difficult to find the support and guidance they need. Through this project, the Family Support team is committed to achieving a coordinated political model. This model for the support of Belgian families should contribute to a decrease in the number of individuals joining the ranks of violent extremist groups. Several means are used to this effect: a mapping of family support practices conducted by university and field researchers, training sessions, consultancies and meetings for the cities and field players, a conference and the publication of a guide.

**Mobile Team**

Funded by the European Commission, the ‘Mobile Team' project aims to provide support to cities and municipalities in preventing radicalism by offering temporary assistance, provided by the multidisciplinary team members.

The objectives and missions are the following:

- To list the current questions on radicalisation facing the cities and municipalities.
- To provide mobile, on-site help to support local authorities regarding prevention, approach and monitoring.
- To evaluate the projects and initiatives at a local level.
- To make a guide of Belgian initiatives in connection with the prevention of radicalisation.

Team members provide support once a prevention approach and monitoring policy is put in place, and once concrete initiatives have been developed. This support may be structured around multiple aspects concerning the prevention of radicalisation (information and understanding of the phenomenon, initiatives implemented in other municipalities, the creation of a CSIL, etc).

This approach is completely free and must be taken at the Mayor's initiative.

**The gender dimension**

Under the ‘Gender mainstreaming’ federal plan pursued by the Institute for equality between men and women, the Minister of Home Affairs proposed to work on the gender
dimension in the prevention of radicalism. A few studies have been carried out under this project, one of which being a survey of the cities and municipalities that have integrated the prevention of radicalism in their security and prevention plan. The objective of the project was to increase ‘awareness’ relating to gender and radicalisation themes, and to facilitate communication on this issue.

In this way, the Directorate General for Security and Prevention intends to establish, within cities that have benefited from this policy, an inventory of projects and initiatives on radicalisation which take into account the gender dimension. Furthermore, awareness tools shall be developed in order to help cities in the implementation of a gender policy.

**Funding support**

The Home Affairs FPS supports cities and municipalities in the development of a policy on the fight against violent radicalisation. In 2015, 15 pilot cities received a single grant totalling €1,425,000 for the prevention of violent radicalisation. This grant, which comes to an end in 2017, was designed to encourage these cities to implement prevention projects likely to be taken up and adopted by other cities and municipalities. Furthermore, a recurring subsidy of €60,000 was allocated to different cities and municipalities in supporting actions in the fight against violent radicalisation. 109 cities and municipalities now have a strategic safety and prevention plan, and through this they benefit from federal authorities’ financial support. These cities may choose to use a portion of these resources to implement preventive measures against violent radicalisation.

**The ‘CoPPRa’ programme**

This programme stands for ‘Community Policing Preventing Radicalisation’. It started in 2010 as a European Commission ‘European Action plan’. The CoPPRa project was the result of the cooperation between 11 EU Member States led by the Belgian integrated police. It is a kind of manual for the officers on tracing signals of radicalisation at an early stage and developing tools to prevent terrorist acts. The project rests on the assumption that regular front-line police officers – community policing officers – have an important role to play in preventing radicalisation because they work on the streets, understand their local communities, and tend to have good community skills. This means they are well placed to spot the signs of radicalisation in an early stage and work in partnership with local communities to prevent or tackle radicalisation.

The CoPPRa project had three areas of activity:

- The creation of a practical, user-friendly tool to support front-line police officers in detecting signs of radicalisation at an early stage. This tool has taken the form of a ‘pocket guide’ which includes guidelines on community engagement, brief information on the indicators and symbols by the full range of groups operating across Europe. The pocket guide is highly visual and written in a basic and accessible style.

- The development of a common curriculum for training front-line police officers in how to use the tool in their daily work. This took the form of a longer manual for
training, which can be used by police academies or the individuals responsible for training within individual police forces. This training manual includes information on the full range of groups and movements, allowing trainers to tailor the training to the local threat context. It includes material on terminology, the radicalisation process, indicators, case studies, how to build community relations, legal frameworks, and group profiles.

The identification and exchange of good practices on how to stop the spread of radicalisation is carried out in close partnership with other local partners. A number of examples are provided in the training manual, and ideas were exchanged at the EU CoPPRa-conference organised in September 2010.

**AT THE MUNICIPAL LEVEL**

Some good practices at the communal level are provided hereunder.

**Liege**

The development plan of November 2015 provided the means to enable this city to implement pilot projects and to organise a preventive strategy via several approaches.

**Educational Prevention**

The first approach hinges upon educational objectives in view of reinforcing the critical spirit and moral resistance vis-a-vis the radicalisation of young people. Schools, community centres, youth movements and sports clubs are where these educational projects take place. The Bounce training programme of the Home Affairs FPS was used as a basis for workshops in schools and youth clubs for youths to acquire characteristics such as moral resistance to radicalised propaganda.

In addition, schools have devoted particular attention to media education, specifically to the manner in which students should react to conspiracy theories and other propaganda circulating on social media. Another pilot project launched this year is the ‘trail of democracy and freedom’ which is held in the city, in 7 symbolic locations (each location relates to a topic such as freedom, peace, tolerance, etc). At every location, community centre hosts or teachers can launch the debate on these topics with the young people.

**Awareness of the public at large**

The second approach aims at communicating to the public at large and raising its awareness on the various types of peaceful coexistence. Particular attention is given to tolerance, dialogue and citizenship, as well as to the coexistence of people of different origin and culture. The manner of managing the phenomenon of violent radicalisation in such an environment is the subject of films and proposed debates thereafter. ‘La Chambre Vide’ (‘The Empty Room’), a documentary by Jasna Krajnovic featuring Sahila Ben Ali playing the main role as the mother of a jihadist who leaves for Syria, led to animated debates in which the protagonist herself took part. The film is shown in the
schools, cinemas and cultural centres of Seraing, Herstal and Ans. Here, citizens may also express their opinion via surveys.

**Training of front-line workers and agents**

In addition, training and information sessions are provided for front-line actors such as street educators, educators involved in community work and work involving young people, or sports club organisers. The processes of political and religious radicalisation and Muslim extremism are explained during these sessions and the problems posed by fighters returning from Syria are delved into.

Training of the Radicalism Unit agents in Liege’s police area is much more specific in the field of the gathering and management of information. The University of Liege takes care of the theoretical aspect. Several foreign experts have visited to give various conferences and workshops.

**Psychosocial Guidance of radicalised young people**

Another approach stresses the psychosocial guidance of these radicalised young people. The young people may choose to follow this guidance or to serve their sentence. Professor Fabienne Glowacz, director of Liege’s Institute of Psychology of Delinquency, in conjunction with the police and with the help of the families, developed psychosocial guidance to guide these young people out of radicalisation. For this pilot project, the objective was to develop a tool for the guidance of radicalised young people which can also be used elsewhere.

**Exchange of information and coordination**

Lastly, since 2015, Liege has organised an exchange of international expertise on radicalisation between the local university, the EFUS (European Forum for Urban Security) of Paris, the Institute for Strategic Dialogue of London and the University of Berlin. The city has also collaborated on the European programme ‘Local Initiatives Against Extremism’. At the federal level, Liege’s Local Integrated Security Cell, composed of representatives of the prevention service, the police and municipal administration, takes part in the national coordination of the cities within the Radicalism Unit of the Home Affairs FPS.

**Schaerbeek**

The municipality of Schaerbeek was able to hire a second Project Officer thanks to the subsidies of the development fund. In addition, the Urban Prevention Programme which had already been active since 2014 was able to be expanded.

**Reinforcement of social cohesion, moral resistance and citizenship**

The Urban Prevention Programme sets up locations in which Muslims and non-Muslims can meet, and where dialogue can be made. This is one of the initiatives aimed at
improving the feelings of frustration and exclusion felt by the high-risk Muslim group. The members of this high-risk group are more prone to being affected by the simplistic and polarised messages of extremist groups, which give them a feeling of belonging and allows them to acquire a new identity.

The fight against racism and discrimination must also be strengthened, and good citizenship and the belief in democratic values must be stimulated. Measures against school dropouts, guidance in the search for employment or housing form a part of it.

Lastly, radicalised young people must also be well-equipped to refuse calls for violence which they see circulating the internet. It is a question of reinforcing their moral resistance and their critical spirit. It is important that they find answers to their frustrations and their feelings of injustice elsewhere, in particular in civil responsibility and in a positive identity. This year, we therefore encourage young people to engage in volunteering activities and the SATT (Thematic and Territorial Support Service) to raise young people’s awareness of Syrian refugees, in conjunction with street educators in community centres.

**Awareness and information in schools**

Families, school management, teachers and the associations that notice signs of radicalisation in young people often feel impotent and need guidance. This is why information and public awareness campaigns have been carried out since 2014 and 2015 on terrorism, propaganda and the geopolitical situation in Syria, in local schools and associations. An educational project based on stories of students and their families has been developed. Schaerbeek also supports ‘Mothers’ School’ of SAVE (Society Against Violent Extremism) Belgium by Saliha Ben Ali, that places mothers worried by the radicalisation of their youngsters into support groups.

Another interesting initiative consists of debates with Mourad Benchellali, who spent some time at an al-Qaeda camp in Afghanistan and who currently commits himself to convincing the young people of Schaerbeek, Molenbeek, Anderlecht and Brussels schools and associations not to get carried away by radicalism.

**Declic, SATT, RePR**

A substantial number of terrorists seem to have discovered violent extremism on the internet. This is why school students are warned against hate preachers and dangerous internet sites. This is done in collaboration with ‘Declic’, a school mediation service. In order to detect signs of radicalisation, the SATT, in conjunction with the police, has organised special training sessions for street animators, teachers and peace officers of the Urban Prevention Programme (SPP-PPU). Families receive information on radicalisation and the resulting problems from the police and the Network for prevention of recidivism (RePR).

**Dialogue**

Dialogue is of course involved in this issue. In Schaerbeek, the exchange of information between the prevention services, the police and the municipal authorities is carried out
within the Local Integrated Security Cell (CSIL). Schaerbeek thus acts not only with the municipalities of the same police area, Saint-Jose-ten-Noode and Evere, but also with other Brussels municipalities within the Regional Observatory for Prevention and Security.

3. Administrative measures in the counter-terrorism context

3A. Description of the different types of restrictive measures aimed at preventing terrorism in our country (control orders, travel bans, house arrests, etc.)

Here, we shall briefly deal with the various restrictive measures in force in Belgium aimed at preventing terrorism.

Temporary withdrawal of identity cards

A law passed on 10 August 2015 allows the Minister of Home Affairs to withdraw an identity card, invalidate it or refuse its delivery to an individual of Belgian nationality if there is well-founded and serious evidence that the latter wishes to enter a territory upon which terrorist groups are active. The identity of the suspected individuals is communicated to the Minister by CUTA.

Refusal to issue passports or temporary withdrawal of passports

The Law of 10 August 2015 amending the Consular Code enables the refusal of delivery, the withdrawal or the invalidation of the passport of an individual of Belgian nationality if the applicant clearly poses a substantial threat to the maintenance of public order or the protection of national or public safety. This decision is made by the Minister of Foreign Affairs while taking account of CUTA’s opinion.

Freezing of assets

The Royal Decree of 28 December 2006 relating to restrictive measures against certain individuals and entities in the fight against terrorist financing enables the freezing of assets of individuals and entities suspected of acts of terrorism. This national procedure of freezing of assets joins the application of the decisions to freeze assets made at United Nations or European Union level in Belgium.

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62 Royal Decree of 28 December 2006 relating to restrictive measures against certain individuals and entities in the fight against terrorist financing, MB 17/01/2007.
On 7 September 2015, the Ministries of Justice and Finance signed a circular implementing this Royal Decree. The Royal Decree and the Circular entrust CUTA with the task of suggesting to the National Security Council that groups or individuals be added to the national list, which results in the administrative freezing of assets of these individuals and groups. As of the 1st September 2017, this list was comprised of 251 people.

3B. Description of the possible ways of challenging administrative measures

Here, we shall briefly approach the various methods of appealing an administrative decision:

**Temporary withdrawal of identity cards**

The Law of 10 August 2015 states that the Ministry of Home Affairs’s decision may apply for no longer than twenty-five days. The party concerned is informed by the Minister or his/her delegate via registered mail within two working days following the decision, and may send his or her remarks in writing within five days upon notification. Upon expiry of this time limit, the Minister must either confirm, withdraw or amend his/her decision if need be within five working days. The Minister must confirm, withdraw or amend his/her decision even where the party concerned did not send written remarks. The Minister or his/her delegate must also inform the party of this decision via registered mail within two working days. If the Minister does not confirm, withdraw or amend his/her decision within these twenty-five days, the decision is repealed. The decision is also repealed when the party concerned is not informed within the time limit set to this end.

**Refusal to issue passports or temporary withdrawal of passports**

The Law of 10 August 2015 states that the decision to refuse delivery of a passport or Belgian travel document no longer applies when the initial decision to refuse the granting, withdrawal or invalidation of the identity card is lifted.

**Freezing of assets**

According to articles 5 and 6 of the aforementioned Royal Decree of 28 December 2006, the names of the individuals and entities re-added to the list are re-examined at regular intervals by the National Security Council, at least once every six months or upon request by the parties concerned, to make sure that their staying on the list remains justified. Each request for review must be made to the Minister of Finance, who without delay shall transfer the request to the National Security Council for examination within the 30 days.

During re-examination, the National Security Council may ask CUTA to bring its evaluations up to date. Upon every re-examination of the list, the National Security Council submits a proposal of retention or deletion of names or further information for approval by the Council of Ministers. If need be, this gives rise to an amendment of the list.
The Treasury of the Finance FPS may also authorise the release or the provision of certain frozen funds or economic resources, after having established that the relevant funds or economic resources are: a) necessary for basic expenditure, including expenditure devoted to food and supplies, rent or reimbursement of mortgage loans, medication and medical expenses, taxes, insurance premiums and collective services; b) intended exclusively for the payment of reasonable professional fees and for the reimbursement of expenditure for legal services; c) intended exclusively for the payment of fees or costs for the keeping or the everyday management of funds or frozen economic resources; or d) necessary for non-recurring expenses.

4. Conclusion

The problems of radicalisation and violent extremism, which lead to possible terrorism, have become a priority for the majority of European States. Belgium has also made it one of its top priorities, especially given the Brussels attacks in March 2016. As stated in this report, whether it is on the Federal State or the federal entity level, various measures have been taken these past few years. The Ministers of Justice and of Home Affairs have also taken up the fight against radicalisation, violent extremism and terrorism, by making these some of the priorities of the 2016-2020 Framework Memorandum on Integral Security (Note Cadre de Sécurité Intégrale 2016-2020) and the national security plan. The Ministers extol not only reinforcing coordination and articulation between various levels of power, but also the structures put in place for security, the improvement of information flow between the various services and authorities (such as, for instance, the possibility of creating common data banks), the hardening of criminal provisions and an improvement in early detection of the process.63

Similarly, Plan R (Radicalisation plan) aims to reduce radicalism and extremism within our society via integrated collaboration between various public services. The base of this action plan is an efficient information flow between the various relevant services, and regular communication between the structures created to this end, namely the ‘National Taskforce’ (NTF) and the ‘Local Taskforces’ (LTFs).64

In the same spirit, the Ministerial Circular of 21 August 2015 relating to the exchange of information and the follow-up of the FTF coming from Belgium has set up a data bank with the aim of placing any information required for the capture of terrorists at the disposal of all services, at all concerned levels. In addition, the Criminal Code was refined in order to precisely state all the preventive measures relating to this matter.

Action plans have also been developed for the prevention of radicalism and terrorism at municipal and regional levels.

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63 Framework Memorandum on Integral Security, p.43.
64 Plan R, p.5.
This integral and integrated approach to radicalism and terrorism stresses the need for good collaboration between the various actors (justice, integrated police forces, customs, military information, crisis centres, etc.), an improvement in the exchange of information and a combination of administrative (the withdrawal of passports or identity cards or the freezing of assets) and legal approaches. The Federal Government works in close cooperation with the governments of other federate entities, which are qualified in a number of essential matters, such as in educating or guiding individuals subject to judicial protection measures.

The various projects and initiatives target terrorism in a general way; they do not specifically target ‘minor terrorist offenders’. Once they are arrested and considered to be ‘suspects’, these young people cannot be treated as standard adult terrorists. Not only that, they can also be considered to be minors in danger. Above all, they are children and they must benefit from specific treatment due to their vulnerability, with procedures and measures adapted to their needs. Respecting children’s rights in this regard implies conforming to the rights stated by the International Convention on the Rights of the Child, such as the right to non-discrimination, freedom of thought, conscience and religion, freedom of association, protection in armed conflict, or even the best interests of the child.

The projects directly concerning minors are usually developed at a preventive level, with training intended not only for the young people themselves but also for their family, teachers, police officers or social workers. In the repressive phase, further favourable targeting of minors is still being deliberated, but it is clear that projects such as the one at hand shall enable the exchange of good practices, which in turn shall allow for the needs of each individual minor to be best met.

DALLEMAGNE G., *La Belgique face au radicalisme, comprendre et agir*, Presses universitaires de Louvain, 2016, 244 pages.


RENARD Th., with contributions from ANDRE, S., DEVROE, E., DUQUET, N., LEMEUNIER, F., Ponsaers, P., SERON, V., *‘Counterterrorism in Belgium: Key challenges and policy options’*, Ed. EGMONT, October 2016.


Enquête parlementaire chargée d’examiner les circonstances qui ont conduit aux attentats terroristes du 22 mars 2016 dans l’aéroport de Bruxelles-National et dans la station de métro Maelbeek à Bruxelles, y compris l’évolution et la gestion de la lutte contre le radicalisme et la menace terroriste, 15 juin 2017, troisième rapport intermédiaire sur le volet « architecture de la sécurité », DOC 54 1752/008.

Ordinance of 29 April 2004 issued by the Common Community Commission of the Brussels-Capital Region on assistance to young people, BOJ 1 June 2004, entered into force on 1 October 2009.
Faculty of Education and Rehabilitation Sciences
University of Zagreb

Neven Ricijaš, PhD
Associate professor

Irma Kov o-Vukadin, PhD
Full professor

Dora Dodig Hundri, PhD
Assistant professor

Maja Kuhta
Translator (from Croatian to English)
1. Counter-terrorism approach and policies (under 18) in Croatia

1A. Sociological background, roots of terrorism in the country, definition of ‘terrorism’, ‘violent extremism’, ‘counter-terrorism’ used in the country

Terrorism has not been a significant problem in the Republic of Croatia, in the sense of terrorist occurrences, with neither Croatian citizens being the perpetrators of criminal offences of terrorism nor Croatian citizens being victims of such criminal offences. Nevertheless, this does not mean that the Republic of Croatia is safe from terrorist activities and threats.

Terrorism is seen as a threat to both international and national security, therefore in 2008 the Republic of Croatia adopted the National Strategy for the Prevention and Suppression of Terrorism which was replaced by the new National Strategy for the Prevention and Suppression of Terrorism in 2015.

Numerous authors, both foreign and domestic, point to the fact that there is no generally accepted definition of terrorism. The definition of criminal offence of terrorism has been adopted on European territory as the combination of objective elements (homicide, physical injuries, hostage-taking, extortion, attacks, threats to commit any of the above stated offences, etc.) and subjective elements (offences committed with the objective to seriously intimidate population, destabilise or destroy the structure of a state or an international organisation or to force a government to abstain from performing certain activities. A terrorist group has been defined as a “structured group of two or more persons established to act for a longer period of time in an organised manner for the

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2 The only such event was the explosion of a car bomb in Rijeka which was described as the first Islamic attack on the European land. The responsibility for the attack was claimed by the Egyptian terrorist organisation al-Gama’a al-Islamija because the Islamist terrorist Talaat Fouad Qasim was extradited to Egypt. More information at: https://narod.hr/kultura/20-listopada-1995-rijeka-islamski-teroristicki-napad-autobom-bombom.

3 A Croatian citizen who was kidnapped in Egypt in 2015. The Egyptian branch of ISIS claimed responsibility for this event. More at: https://www.vecernji.hr/vijesti/dzihadisti-iz-libije-oteli-su-i-ubili-tomislava-salopeka-1019529

4 OG, 139/08.

5 OG 108/15.


purpose of committing criminal offences of terrorism. In the 2008 National Strategy for the Prevention and Suppression of Terrorism, the term terrorism was understood as a "designed, systematic, intentional use of violence or a threat to use violence against people and/or material goods as the means to provoke fear or to take advantage of fear spread within an ethnic or religious community, in the public, in the state or the entire international community, with the purpose to achieve politically, religiously, ideologically or socially motivated changes". Apart from the definition itself, the 2008 National Strategy also defined among the main characteristics of terrorism the main subjects and intentions of terrorist activities: "One of the main characteristics of terrorism is that it is usually practised by non-state conspiracy organisations or groups which can be supported (directly or indirectly) by a state or a group of states and often by organisations whose publicly declared intention and goals are unrelated to terrorism but who use their concealed objectives and actions to support terrorist activities. Terrorism is also defined by the intention to provoke destructive political and psychological consequences which can significantly exceed the goal itself of a terrorist act, as well as the intentions of those who resort to terrorism to create an atmosphere of anarchy or to provoke an excessive repressive and non-selective response from the government in order to compromise it in the eyes of the public and therefore justify terrorist means and intentions".

In the 2015 National Strategy for the Prevention and Suppression of Terrorism, the definition of terrorism changed somewhat. In this way, the new strategy defines terrorism as "one of the most serious criminal offences which uses planned and intentional violence and/or threatens to use violence and thereby intends to create an atmosphere of fear, in order to achieve certain political, religious, ideological and other objectives. Terrorism also completely negates the essence of democracy and the acknowledged civilisation, religious and cultural values of contemporary world, including human rights and fundamental freedoms, therefore it does not have and cannot have any justifications, nor can it be related to any national, religious, racial, ethnic or any other origin."

Mr. Milardović defines extremism as an attitude and a system of values placed on the margins of the spectre of beliefs and ideology, but nonetheless present in politics, ideologies, religions and among various social groups. With the promotion of violence, both rightist and leftist extremisms are characterised by their intention to have democracy and a constitutional state abolished. The right-wing extremism is marked by the ideologies promoting anti-parliamentarism, racism, anti-semitism, xenophobia, extreme nationalism and totalitarian regimes, whereas left-wing extremism is marked by the ideologies promoting societies of equality.

Scientific and professional interest in terrorism in Croatia

The search of the term “terrorism” on the portal of Croatian scientific bibliography has resulted with 227 hits in different material formats – from books, chapters in books,

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13 http://bib.irb.hr/
scientific and expert papers, lectures, presentations, doctorate theses and diploma papers in which terrorism was stated as one of the key words. In many hits it is clear from the title itself that terrorism is a part of some other topic. B Bilandžić 14, Blagojević 15 and Derenčinović 16 wrote books in which they analyse the problem of terrorism from a more recent perspective. In the Croatian scientific and expert sphere, terrorism is analysed as a problem mostly from a politological, sociological and legal perspective. It is interesting to see that none of the papers deal with the problem of young people in the terrorist context nor with the problem of radicalisation of young people probably because this issue is relatively new.

1B. The most common forms of terrorism and the profiles of youngsters suspected or accused of terrorism or violent extremism in the country

The official sources of data on criminal offences of terrorism are the statistics of the police, state attorney’s office and courts. Table 1 contains the information on criminal charges filed by the police.

Table 1. Reported criminal offences pursuant to the 2011 Criminal Code (OG 125/11, 144/12 and 56/15, 61/15)

<table>
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<th>ARTICLE</th>
<th>2013</th>
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<td>97. Terrorism</td>
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<td>Children</td>
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<td>98. Financing of terrorism</td>
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<td>99. Public incitement to terrorism</td>
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<td>101. Training for terrorism</td>
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<td>102. Terrorist association</td>
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<td>Children</td>
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<td>Children</td>
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Children = criminally liable children (age 14 to 18)

17 A criminal complaint was filed in January 2013 against a 42 year old male at the Split-Dalmatia Police Administration for reasonable suspicion that he published on his Facebook profile and Facegroup group a video in which he publicly invited citizens to perform terrorist acts. After that, an unknown person for now, published the same video on YouTube. Source: website of the Ministry of the Interior (MUP) of the Republic of Croatia (http://policija.hr/147319/288.aspx. Accessed on 19.07.2017.).
In the period between 2001 and 2012, the police didn’t report any terrorist-related criminal offences:

- 169 Terrorism
- 169.a Public incitement to terrorism
- 169.b Recruitment and training for terrorism
- 187 Associating to commit criminal offences against the values protected by international law
- 187.a Preparation of criminal offences against values protected by international law
- 187.b Subsequent assistance to the perpetrator of criminal offence against values protected by international law

As of 2008, the annual reports of the Ministry of the Interior of the Republic of Croatia contain a special reporting chapter: Criminality of criminal offences against terrorism and extremist violence.

Apart from the official data of the law enforcement agencies, another valuable source of information is also the reports of the Security and Intelligence Agency (SOA) which became public as of 2014. Therefore, with respect to the terrorist threat, the 2014 report states that the “trend of accepting radical interpretation of Islam in the countries of South East Europe has been growing” which is visible in the numerous ‘jihadists’ who leave Europe to fight in Syria and Iraq as members of radical Islamist groups. It is concluded that no Croatian citizens have been identified in the ‘jihadist’ troops but that the territory of the Republic of Croatia is used as a transit area. However, SOA believes that the persons who return to their home countries after having participated in the ‘jihadist’ troops present a significant security risk. The factor of risk associated with those persons is in the fact that they are often additionally radicalised by having participated in the armed conflict, they are traumatised by the war experience and also trained for combat.

The 2015 report states that the level of terrorist threat on the territory of the Republic of Croatia is low, however, in the context of a global growth of terrorist threats, this should not be taken for granted. With regard to the threats related to Islamist point of view, it is estimated that the degree of risk is low because according to the security estimates the “number of followers of the radical interpretation of Islam in the Republic of Croatia is small, maybe several dozen of whom most of them are not supporters of terrorist methods of action”. SOA identifies the transit role of Croatia as a security challenge. It was discovered that six persons who have Croatian as well as some other citizenships, spent a certain amount of time on the territory of the so-called Islamic State. Prior to their radicalisation, these persons had moved out of Croatia or never even lived in Croatia. The report also mentions that in Croatia there are cases of radicalised women who go to the so called Islamic State in the capacity of wives or future wives of “jihadists”. There is also one case of a minor, a Croatian citizen, who had the intention to join the Islamic groups in Syria. The young man became radicalised on the Internet where he entered into direct contact with the ‘jihadists’ from Syria who were promoting fighting for the so-called Islamic State. In discussions with his family and as a result of psychological help that was provided to the young man, the problems and dilemmas were identified and then resolved. In the end, the minor abandoned his radical views and decided against fighting for ‘jihad’.
In its 2016 report, SOA points to the increased level of terrorist threat for the entire Europe, including Croatia. Particular attention is drawn to the brief description of one case when a Croatian citizen was kidnapped in Egypt in the summer of 2015. The Egyptian branch of ISIS claimed responsibility for this case.

1C. Global political approach/trends and legislative focus in response to terrorism in the country. What are the main policies and strategies implemented?

The main strategic framework for terrorism is the **Security Strategy for the Republic of Croatia**. The 2002 National Security Strategy of the Republic of Croatia\(^{18}\) was in force until the end of July when it was estimated that it no longer represented a basic strategic document providing policies and instruments to achieve certain visions and national interests, and to meet security requirements which would ensure a balanced and continuous development of the state and society because the security paradigm has significantly changed in the contemporary world (the Government of RoC, Draft National Security Strategy, 2017). On 14 July 2017 the Croatian Parliament adopted the new National Security Strategy\(^{19}\) which is more dedicated to the safety of people due to the increased probability of asymmetrical threats, pointing to the fact that the security paradigm valid up to that point has changed. The Strategy thus develops an overarching concept of security, ensuring a better coordination, strategic planning, pooling of resources and a balanced development of capabilities in order to develop security policies which will guarantee, at the national level and in cooperation with allies and partners, a high degree of security for the citizens. This new concept of security assumes the passing of the Homeland Security System Act which defines the bodies of state administration competent for the interior affairs, defence, foreign affairs, civil protection, finance and justice as well as other state bodies\(^{20}\) if necessary, as the central bodies of homeland security system. The National Security Council is established as the central body of the homeland security system (already performing duties in that respect http://www.uvns.hr/hr) with the objective of analysing national security risks and issues in the framework of state bodies, to develop guidelines, decisions and conclusions on the methods of protection, protection of national interests and achievement of strategic goals. The plan is also to establish an “operating body” to coordinate the homeland security system and to ensure that the National Security Council decisions, conclusions and guidelines are implemented. Special attention is given to education, therefore the plan is to develop specialised training programmes for the employees of state administration bodies, local and regional government administration bodies, as well as for the employees of public and private sectors working in the area important for homeland security.

The strategy mentions terrorism while describing the security environment at both global and European levels, as well as on the territory of neighbouring states. Terrorism is recognised as a permanent threat to international and national security. It is evident

\(^{18}\) OG 33/02.

\(^{19}\) OG 73/17.

\(^{20}\) Deputy Prime Minister of Croatia and Minister of Defence Mr. Damir Krstičević, presenting the draft proposal of the National Security Strategy and the Homeland Security System Act.
that there is a "growing readiness and ability among terrorists to cause considerable destruction and damage, and a large number of victims." In the European context, the recognized challenges are the development and implementation of common European policies and processes of political radicalisation and populism. In the area of South-Eastern Neighbourhood, there is a growing trend of "increased intolerance, radicalism and extremism, especially Islamic radicalism" and it is improbable that the causes of the above mentioned occurrences can be eliminated or mitigated in the mid-term period. Particular attention is given to the self-radicalised individuals "who are not in direct contact with terrorist organisations, but under the influence of terrorist propaganda, they could perform individual terrorist attacks". For the Republic of Croatia, the Strategy identifies a low level of probability for a terrorist attack. The security threat is seen in the "transit of the terrorist organisation members across the Croatian territory, using also illegal migrations". Extremist actions of individuals and groups on the territory of the Republic of Croatia are considered to be "sporadic, without any encouragement potential or wider support from the citizens" and also without any "potential to jeopardize public security". Extremism among individuals within football supporters groups is cited as the example of negative practice.

In the context of defining strategic national security goals, terrorism is mentioned under the objective: "reaching the highest degree of security and protection of citizens, as well as critical infrastructures". It is therefore described that the "fight against terrorism shall be conducted through an integrated approach and cooperation among different departments, by implementing prevention and suppression measures, protection measures, law enforcement and by strengthening international cooperation." It is also stated that the "Republic of Croatia shall use a comprehensive approach to prevent and suppress radicalism and extremism, including through education on democracy, non-violence and human rights. There will be zero tolerance to violence, especially to hate crime, bullying among school children and abuse of sports and other events to express radicalism, extremism and hooliganism.*

The specific strategic document dedicated to terrorism is the National Strategy for the Prevention and Suppression of Terrorism. The first strategy was adopted in 2008, but currently in force is the 2015 strategy. The clarification of the new draft strategy presents how this document describes new dimensions of terrorist dangers which include: the phenomenon of foreign terrorist fighters, terrorists operating alone, new methods of financing terrorism including kidnapping for ransom, providing assistance and experience in the development of counter-terrorist capacities of the countries in South-East Europe, abuse of information and communications technologies, extremism and violent radicalism. The Strategy is based on the principles and values of the Republic of Croatia's Constitution, the United Nations Charter, membership in the EU and NATO and it supports the goals and values of the Global Counter-Terrorism Strategy of the United Nations and the Counter-Terrorism Strategy of the European Union, as well as other relevant international documents.

21 OG, 108/2015
22 http://www.glas-slanovije.hr/281932/1/Nova-strategija-za-prevenciju-i-borbu-protiv-terorizma
The Strategy describes the following as the basic defining characteristics of terrorism:

- Terrorism is one of the main security threats of the 21st century showing extraordinary adaptability to new circumstances;
- The main threat is seen in the global fundamentalist terrorist networks and their followers;
- Additional challenges to counter-terrorism systems are the new forms of terrorism – foreign terrorist fighters, radicalised individuals, i.e. terrorists who operate alone and independently;
- Terrorism is the cause of material damage and harm done to people, and it increases fear in public;
- Terrorist objectives are to procure and use weapons and other means of mass destruction;
- Terrorists are logistically organised in the procurement of weapons and other means of destruction;
- Terrorists develop new methods of financing their activities;
- Another point of concern is the growing abuse of information and communications technologies (especially the Internet) to communicate and disseminate terrorist ideologies, to radicalize, attract extremists and spread knowledge and information on terrorist methods and techniques;
- There is evidence of “professionalization of terrorism” whereby persons with specific knowledge and skills are hired and paid to perform various tasks, even though they are not ideologically related to terrorism;
- Terrorists intend to attract and use individuals and groups who are marginalised in society (neglected or rejected);
- They try to win over the support for their radical views and to recruit new members through distorted interpretations of specific social, economic, religious and political issues;
- The security and resilience of terrorist organisations is protected through a decentralized organisation structure;
- Terrorist activity can be connected with other asymmetrical threats (e.g. transnational organised crime, illegal migrations, trafficking in human beings and kidnapping);

In its third chapter, the Strategy describes how important it is to contribute to international counter-terrorism effort, and emphasizes the significance of participating in international and multilateral activities for terrorism suppression, as well as the relevance of such activities for national security. A particular emphasis in that respect is given to activities in the South-East Europe neighbourhood, in the framework of two components: 1) cooperation among security sectors and cooperation at border control, and 2) general foreign policy activities of the Republic of Croatia concerning countries in the region.

The fourth chapter of the Strategy presents the measures in the fight against terrorism, structured through four areas: 1) prevention of terrorism, 2) suppression of terrorism, 3) protection from terrorism, and 4) prosecution and sanctions.

In the Strategy, prevention of terrorism is defined as the “creation of such political, social and economic circumstances which strengthen the inner cohesion of the society and its resilience to the influence of extreme ideologies, and which eliminate any preconditions
for the appearance and spreading of terrorism in all its elements and forms”. Some of the terrorism prevention measures interesting in the context of this report are as follow:

- “Stopping promotion of and invitation to terrorism, and incitement to terrorism in any way;
- Recognizing and preventing radicalisation and extremism that can potentially grow into terrorism;
- Encouraging research, analysis and sharing of experience and best practices in order to eliminate any spread of extremist ideologies, and increasing understanding and tolerance in society;
- Developing human resources for the fight against terrorism through newly designed programmes of education and training23 for which it is necessary to create organisation-related and functional preconditions for the development of scientific and expert work in this area;
- Establishing a national mechanism with key participants from the state, private and public sectors with the objective of detecting, and reducing availability and the effect of the Internet contents promoting terrorist radicalisation, recruitment and training.”
- The suppression of terrorism in the Strategy refers to the “taking of measures and implementing of procedures against the creation, dissemination and operation of terrorist networks and organisations, all of which assumes a timely discovery of actions such as planning, preparing, organising and/or conducting activities bearing characteristics of terrorism.” In the context of this report’s topic, one of the stated measures can be highlighted:
- “eliminating all forms of recruitment for terrorist groups whose acts are directed against any state”.
- In the context of criminal prosecution and sanctioning, it is worth highlighting the following measures:
- “harmonizing the national criminal law with the international convention law and acquis communautaire of the European Union in order to conduct criminal procedure and to prosecute and sanction all forms of planning, preparing, organising and committing all criminal offences related directly or indirectly to terrorism including the criminal offences of cyber crime related to terrorism, as well as international restrictive measures regarding terrorism;
- Stipulating adequate criminal sanctions with the possibility to apply corresponding security measures, special obligations and other alternative measures in order to prevent radicalisation and to eliminate any existence or acts by legal persons connected to terrorism."

The fifth chapter of the Strategy deals with human rights and freedoms, and public relations. It is clearly stated that “all of the measures of prevention and suppression of terrorism should be in line with the accepted standards of human rights and freedoms”

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23 In the context of education and training it is worth noting that the undergraduate study programme of Sociology at the Faculty of Humanities and Social Sciences in Zagreb offers an elective subject called Terrorism and Society. The elective subject Terrorism is also offered to the students of the postgraduate specialist interdisciplinary study programme of Crisis Management. Apart from at the university level, terrorism is also part of curriculum at the undergraduate and graduate level of the specialist study course of criminalistics at the Police College (e.g. Security System and National Security of the Republic of Croatia; European and International Security; Fires, Explosives and Terrorism).
and that the “counter-terrorism measures should be appropriate, proportionate to the threat and in accordance with the law”. With respect to public relations, the emphasis is placed on the importance of free and unhindered dissemination of information as one of the most efficient means for promoting understanding and tolerance. However, the openness of society and the freedom of information and communication technologies are used by contemporary terrorism for its own purposes, therefore it is important to clearly define that spreading any ideology of terrorism, criminal association and conspiracies with the purpose of committing terrorist acts, their glorification and incitement are prohibited and legally punishable behaviours. Such behaviour, as it is stated in the Strategy, represents a “denial of fundamental human rights and freedoms of individuals and the entire community”.

The final, sixth chapter of the Strategy defines the implementation and coordination of the Strategy. The competence of the National Commission for the Prevention and Suppression of Terrorism and its activities are therein defined. With respect to the topic of this report, we should highlight one of the National Commission’s activities:

“developing cooperation with the scientific and educational community in order to improve the current measures of protection and mechanisms for the prevention and suppression of terrorism. In particular, cooperation between academics, practitioners and policy makers shall be encouraged with the objective of identifying research purposes and directing research activities in the areas of counter-terrorism, extremism, media, propaganda, social networks and all other disciplines and fields that can help determine and eliminate causes of terrorism.”

At the implementational level, the Action plan for the prevention and suppression of terrorism passed in 201224 is still relevant. It outlines in detail the foundations and measures of the 2008 National Strategy for the Prevention and Suppression of Terrorism. The Action Plan analyses seven functional categories of which five are directly stated in the National Strategy and two derive from the goals and requirements of the operational implementation of the National Strategy:

1. prevention of terrorism
2. suppression of terrorism
3. protection from terrorism (terrorist operations)
4. damage repair and recovery from terrorist attack
5. legal infrastructure, criminal procedure, prosecution
6. training and education for counter-terrorism operations
7. coordination between departments and international cooperation

The Action Plan is, just like the National Strategy, based on four main categories of activities: “1. Protection from terrorism, prevention of terrorism, intelligence information research with the objective of eliminating terrorist acts, the criminal prosecution of perpetrators of terrorist acts, and responding to perpetrated terrorist acts, i.e. taking action under the circumstances of crisis as the consequence of terrorist acts being committed.” The overall criminal justice framework regarding criminal offences of terrorism is described in Chapter 2 of this report.

24 OG, 136/12.
In the institutional sense, the prevention and suppression of terrorism are included in the direct scope of the work of the Security and Intelligence Agency and the Ministry of the Interior of the Republic of Croatia.

The President of the Republic of Croatia and the Government of the Republic of Croatia coordinate the work of security and intelligence agencies through the National Security Council. The Council for the Coordination of Security Intelligence Services operationally coordinates the work of security and intelligence agencies, whereas the administrative work for the two Councils is performed by the Office of the National Security Council (Security and Intelligence Agency, 2016).

Diagram of the security and intelligence system of the Republic of Croatia (Security and Intelligence Agency, 2016)

On the website of the Security and Intelligence Agency (SOA) (www.soa.hr/kontakt/) there is a telephone number of the SOA answering machine representing a contact point for citizens, with the following instructions:

“The contact number of the SOA answering machine is: 01/377–2222”
The stated phone number is intended for citizens and any information they might have regarding threats posed to the national security and interests of the Republic of Croatia. The Security and Intelligence Agency guarantees complete anonymity to the citizens who submit such information.

When SOA considers that the citizens’ information is relevant for the national security, SOA employees will contact those citizens (if they leave their identification information, phone number or email address) in order to verify the credibility of such information. It is important to emphasize that any abuse, i.e. delivery of false information is subject to penalties stipulated in the positive legal regulations of the Republic of Croatia.

Within the Ministry of the Interior, the issues related to the prevention and suppression of terrorism are in the competence of the Service for Terrorism which is a structural unit of the Anti-terrorism and War Crime Department within the Criminal Police Directorate of the General Police Directorate.

The Service for Terrorism scope of work is defined in Article 65 of the Regulation on internal structure of the Ministry of the Interior:

The Service for Terrorism "monitors and studies the situation and types of terrorist incidents and criminal offences, international terrorism and security-related events related to terrorism; determines the most favourable methods for the prevention and identification of perpetrators of these criminal offences; provides expert assistance to police officers in police administrations; supervises the performance of tasks and assignments in the investigations of criminal offences in this area; it is directly involved in the work and investigations of the most complex criminal acts of terrorism, international terrorism and other criminal offences related to terrorism; participates in the collection of information and development of other expert materials; ensures direct cooperation with other state bodies, institutions, international organisations and police services of foreign countries in the performance of tasks in its competence."

The cases involving children (under 18) will be dealt by the police officers of the Department for juvenile delinquency and crime committed against of youth and family of the General Crime Service of the General Crime, Terrorism and War Crime Sector. According to the Regulation on Internal Structure of the Ministry of the Interior (Art. 63), this Department "monitors and analyses the situation and types of incidents of juvenile offending, criminal offences detrimental to children and youth as well as punishable acts committed through violent behaviour in the family; it determines the most favourable methods for preventing and detecting perpetrators in this area of punishable behaviour; provides expert assistance to police administrations; supervises criminal investigations of punishable acts in these areas; organises, coordinates and participates in criminal investigations of more complex criminal offences at the national level and within its jurisdiction; cooperates with other state authorities and civil society organisations in the suppression of juvenile delinquency and in finding the right direction in ensuring legal protection of children and youth and fighting family violence; participates in the development of normative acts; and performs other tasks within its scope of work."
On its webside www.mup.hr, the Ministry of the Interior (MUP) has a link to report terrorism with the following instruction:

“Dear citizens,

You can report here any content on the Internet connected to terrorism, terrorist organizations or groups, as well as any content leading to terrorist propaganda and published in Croatian, on Croatian websites or which is somehow connected to the Republic of Croatia.

In the communication space below, please copy the link to the Internet content related to terrorism and briefly describe the content and how it is connected to terrorism.”

1C. General status of extremist criminality concerning juveniles (under 18)

We didn’t have such cases in the Republic of Croatia.
2. National legislation in the counter-terrorism context

2A. Evolution of legislation in the area of counter-terrorism

Before describing the definitions and changes in the Croatian legislation related to counter-terrorism, it is important to emphasize that the set of criminal justice regulations in Croatia contains various laws with different meanings and applications with respect to adult and juvenile perpetrators of criminal offences.

The Criminal Code fully applies to adult perpetrators of criminal offences, as does the Criminal Procedure Act. However, in relation to juvenile offenders (age 14-18), a criminal offence is defined according to the Criminal Code but the criminal procedure and sanctioning are conducted according to a special act called Juvenile Courts Act. In that respect, the sanctions listed below in the Criminal Code are valid only for adult perpetrators of criminal offences, whereas the criminal offence description itself applies regardless of the age group.

It is also important to note that criminal justice legislation in Croatia does not apply to a child who was not 14 at the time the criminal offence was perpetrated. If the person is considered a child in the legal sense and if a criminal offence was perpetrated, it is the Family Act and the Social Welfare Act that apply. In Croatia, children are excluded from criminal liability.

Young adults are a special age group. These are persons between 18 and 21 years old. In their case, a decision is made, with respect to a specific evaluation and circumstances, whether they will be prosecuted and sanctioned as adults (pursuant to the Criminal Procedure Act and the Criminal Code) or as minors (pursuant to the Juvenile Courts Act). Different factors influence such a decision, but they primarily depend on the type and severity of the committed offence, the motivation for committing it and any prior convictions.

In the Republic of Croatia in the last twenty years, two criminal codes were passed which have defined the criminal offences related to terrorism and they have both been amended. The first Criminal Code was adopted in 1997 and entered into force on 1 January 1998. It was in force until 31 December 2012 (Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11, 143/12).

In this (old) Criminal Code, the criminal offences related to terrorism were described in Chapter XIII under the title “Criminal offences against values protected by international law”. Various criminal offences related to war such as criminal offences of genocide, aggressive war, crimes against humanity, war crimes against civilian population, war crimes against the wounded and sick, against prisoners of war, unlawful killing and wounding the enemy etc, as well as criminal offences related to the abuse of narcotic drugs, racial and
other forms of discrimination, trafficking in human beings and slavery, torture and other cruel, inhuman or degrading treatment, illegal transfer of persons across state borders, international prostitution, hijacking an aircraft or a ship, piracy on the sea and in the air, etc.

In the (old) version of the Criminal Code, three criminal offences are specifically related to the domain of terrorism, and those are: criminal offence of terrorism (Article 169), public incitement to terrorism (169.a) and recruitment and training for terrorism (Article 169.b). They are defined as follows:

**Terrorism**

**Article 169**

Whoever aims to cause major fear among the population, forces the Republic of Croatia or a foreign state or international organization to do or not do something, or who aims to seriously jeopardize or destroy fundamental constitutional, political or social values, or the constitutional structure of state authority and legal persons with public powers, of the Republic of Croatia, a foreign state or an international organisation, who commits one of the following criminal offences:

a. attack on life, limb or freedom of another person;
b. kidnapping or hostage taking;
c. destruction of a state or public facility, transport system, infrastructure facility including information systems, fixed platforms located on epicontinental shelf, general goods or private property, which can endanger human life or cause considerable economic damage;
d. hijacking of an airplane, vessel or other means of public transport or transport of goods which are likely to endanger human life;
e. manufacturing, possessing, acquiring, transporting, supplying or using weapons, explosives, nuclear or radioactive material or device, as well as nuclear, biological or chemical weapons;
f. researching and developing nuclear, biological or chemical weapons;
g. discharging dangerous substances or causing fires, explosions or floods, or performing other generally dangerous actions, the effect of which is to endanger human life;
h. interfering with or disrupting the supply of water, electricity or any other fundamental natural resource, the effect of which is to endanger human life, shall be punished by imprisonment for not less than five years

(2) Whoever threatens to commit the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for one to five years.
(3) If the perpetrator, while committing the criminal offence referred to in paragraph 1 of this Article, intentionally murders one or more persons, shall be punished by imprisonment for not less than ten years or by long-term imprisonment.
(4) If the perpetration of the criminal offence referred to in paragraph 1 of this Article caused death for one or more persons, or a large scale destruction was caused, the perpetrator shall be punished by imprisonment for not less than ten years.
Public incitement to terrorism
Article 169.a

(1) Whoever aims to commit the criminal offence referred to in Article 169 of this Act and publicly expresses or promotes ideas, thereby directly or indirectly inciting terrorism and thus causing danger of committing that criminal offence, shall be punished by imprisonment from one to ten years.
(2) In order to initiate criminal proceedings for the criminal offence referred to in this Article, it is necessary to obtain the approval from the State Attorney General of the Republic of Croatia.

Recruitment and training for terrorism
Article 169.b

(1) Whoever aims to commit the criminal offence referred to in Article 169 of this Act and thus solicits another person to commit or participate in the perpetration of the criminal offence of terrorism or to join a group of people or a criminal association with the purpose of contributing to the perpetration of this criminal offence conducted by this group or criminal association, shall be punished by imprisonment from one to ten years.
(2) The punishment referred to in paragraph 1 of this Article shall apply to whoever aims to commit the criminal offence referred to in Article 169 of this Act and gives instructions on the development and use of explosive devices, fire arms or other weapons or harmful or dangerous substances, or trains another person to apply the methods and techniques to commit or participate in the perpetration of that criminal offence.
(3) In order to initiate criminal proceedings for the criminal offence referred to in this Article, it is necessary to obtain the approval from the State Attorney General of the Republic of Croatia

Along with the three stated specifically-defined criminal offences related to terrorism, there were another three criminal offences related to the modalities of perpetrating criminal offences against values protected under international law and which also applied to the criminal offences of terrorism from Articles 169., 169.a, 169.b. Those criminal offences were the following:

- Associating to perpetrate criminal offences against values protected under international law (Article 187);
- Preparing criminal offences against values protected under international law (Article 187.a);
- Subsequent aid to the perpetrator of the criminal offence against values protected under international law (Article 187.b);

Since this Act is no longer in force, the new Criminal Code will be described in more detail in chapter 2B. The new Act was adopted in 2011 and entered into force on 1 January 2013. It has been amended several times (Official Gazette 125/11, 144/12, 56/15, 61/15). The main change refers to the title of the chapter in which terrorism-related criminal offences are listed, namely Chapter IX. Criminal Offences against Humanity and Human Dignity. The title is no longer related to the values protected by international law,
but it refers generally to humanity and human dignity, regardless of international context.

In that respect, the following criminal offences are listed in this chapter of the Criminal Code which is currently in force (Official Gazette 125/11, 144/12, 56/15, 61/15):

- genocide (Art. 88.)
- crime of aggression (Art. 89.)
- crime against humanity (Art. 90.)
- war crime (Art. 91.)
- injury of an intermediary (Art. 92.)
- misuse of international symbols (Art. 93.)
- unjustified delay of the repatriation of prisoners of war (Art. 94.)
- recruitment of mercenaries (Art. 95.)
- command responsibility (Art. 96.)
- terrorism (Art. 97.)
- financing of terrorism (Art. 98.)
- public incitement to terrorism (Art. 99)
- recruitment for terrorism (Art. 100)
- training for terrorism (Art. 101)
- terrorist association (Art. 102)
- preparing criminal offences against values protected by international law (Art. 103)
- torture and other cruel, inhuman or degrading treatment or punishment (Art. 104)
- slavery (Art. 105)
- trafficking in human beings (Art. 106)
- trafficking in human body parts and human embryos (Art. 107)
- cloning and changing human genome (Art. 108)
- ban on mixing human reproduction cells with animal cells (Art. 109).

From the above outline, it is clear how the definitions of criminal offences in the new Criminal Code (2011) changed somewhat in relation to the old Criminal Code (1997). Financing of terrorism was added as a separate criminal offence, whereas recruitment and training for terrorism were separated in the definition and description into two articles. Terrorist association was defined separately.

These criminal offences will be specially described in the following chapter (2B).
Comparative display of the old and new Criminal Code articles referring to terrorism (Turković I sur., 2013)\textsuperscript{26}

<table>
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<tr>
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<th>TITLE</th>
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<td>terrorism</td>
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<tr>
<td>169a</td>
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<tr>
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<td>303.</td>
<td>Aid to the perpetrator after the criminal offence was committed</td>
</tr>
</tbody>
</table>

2B. National legislation connected to terrorism and/or violent extremism issues implemented in the country

The current Criminal Code (Official Gazette 125/11, 144/12, 56/15, 61/15) places the criminal offences related to terrorism in Chapter IX Criminal Offences against Humanity and Human Dignity. In the context of this project, it is important to state that the Criminal Code is not familiar with nor does it use the terms related to violent extremism or radicalisation. These terms are not used in the Croatian criminal justice legislation; only terms related to terrorism are used.

In that respect, the previously described criminal offences (chapter 2A) related to terrorism (from Article 97 to Article 103) have been defined as follows:

(1) Whoever, with the aim of seriously intimidating a population, or compelling a government or an international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental constitutional, political, economic or social structures of a state or an international organisation, commits any of the following acts which may seriously damage a state or an international organisation:

1. attacks upon a person’s life which may cause death;
2. attacks upon the physical integrity of a person
3. kidnapping or hostage taking;
4. causing destruction to a government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, which is likely to endanger human life or result in major economic loss;
5. hijacking of aircraft, vessel or other means of public transport or transport of goods
6. manufacture, possession, acquisition, transport, supply or use of weapons, explosives, nuclear, biological or chemical weapons as well as research into and development of nuclear, biological or chemical weapons;
7. release of dangerous substances, or causing fires, explosions or floods, the effect of which is to endanger human life;
8. interfering with or disrupting the supply of water, electricity or any other fundamental natural resource, the effect of which is to endanger human life; or
9. possessing or using radioactive substances or manufacturing, possessing or using a device for the activation, dispersal or emission of radioactive material or ionising radiation, using or causing damage to a nuclear facility resulting in the release of radioactive materials or the danger thereof, or requesting, by using force or a threat, radioactive material, a device for activating, dispersing or emitting radioactive material or a nuclear facility shall be punished by imprisonment from three to fifteen years.

(2) Whoever threatens to commit a criminal offence referred to in paragraph 1 of this Article shall be punished by imprisonment from six months to five years.

(3) If extensive destruction or death of one or more persons has been caused by the criminal offence referred to in paragraph 1 of this Article, the perpetrator shall be punished by imprisonment for not less than five years.

(4) If, in the course of perpetrating the criminal offence referred to in paragraph 1 of this Article, the perpetrator intentionally kills one or more persons, he or she shall be punished by imprisonment for not less than ten years or to long-term imprisonment.

Financing of terrorism
Article 98

(1) Whoever directly or indirectly provides or collects funds with the intention that they be used or in the knowledge that they will be used, in full or in part, in order to carry out one or more of the criminal offences referred to in Article 97 (Terrorism), Articles 99 through 101 (Public incitement to terrorism, Recruitment for terrorism, Training for terrorism), Article 137 (Kidnapping), Article 216, paragraphs 1 through 3 (Distruction
of or damage caused to public devices), Article 219 (Abuse of radioactive substances), Article 223 (Attack upon airplane, ship or immovable platform), Article 224 (Endangering transport system by performing a dangerous act or using dangerous means), Articles 352 through 355 (Murder, Kidnapping, Attack on or threatening a person under international protection) of this Code or any other criminal offence intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part in an armed conflict, when the purpose of such an act is to intimidate a population or to compel a government or an international organisation to perform or to abstain from performing any act, shall be punished by imprisonment from one to ten years;

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever directly or indirectly provides or collects funds with the intention that they be used or in the knowledge that they will be used, in full or in part, by terrorists or by a terrorist association.

(3) The funds referred to in paragraphs 1 and 2 of this Article shall be confiscated.

Public incitement to terrorism
Article 99

Whoever publicly expresses or promotes ideas directly or indirectly inciting the commission of a criminal offence referred to in Articles 97 (Terrorism) through 98 (Financing of terrorism), Article 137 (Kidnapping), Article 216, paragraphs 1 through 3 (Distruption of or damage caused to public devices), Article 219 (Abuse of radioactive substances), Articles 223 (Attack upon airplane, ship or immovable platform), Article 224 v, Articles 352 through 355 (Murder, Kidnapping, Attack upon or threatening a person under international protection) of this Code, shall be punished by imprisonment from one to ten years.

Recruitment for terrorism
Article 100

Whoever solicits another person to join a terrorist association for the purpose of contributing to the commission of a criminal offence referred to in Article 97 (Terrorism), Article 102 (Terrorist association), Article 137 (Kidnapping), Article 216, paragraphs 1 through 3 (Distruption of or damage caused to public devices), Articles 219 (Abuse of radioactive substances), Article 223 (Attack upon airplane, ship or immovable platform), Article 224 (Endangering transport system by performing a dangerous act or using dangerous means), Articles 352 through 355 (Murder, Kidnapping, Attack upon or threatening a person under international protection) of this Code, shall be punished by imprisonment from one to ten years.

Training for terrorism
Article 101

Whoever provides instructions in the making or use of explosive devices, firearms or other weapons or noxious or hazardous substances, or in other specific methods or
techniques, knowing that the skills provided are intended to be used for the purpose of committing any of the criminal offences referred to in Articles 97 (Terrorism), Article 98 (Financing of terrorism), Article 137 (Kidnapping), Article 216, paragraphs 1 through 3 (Distruction of or damage caused to public devices), Article 219 (Abuse of radioactive substances), Articles 223 (Attack upon airplane, ship or immovable platform), Article 224 (Endangering transport system by performing a dangerous act or using dangerous means), Articles 352 through 355 (Murder, Kidnapping, Attack upon or threatening a person under international protection) of this Code, shall be punished by imprisonment from one to ten years.

**Terrorist association**

**Article 102**

(1) Whoever organises or runs a criminal association the aim of which is to commit a criminal offence referred to in Articles 97 through 101 (terrorism, financing of terrorism, public incitement to terrorism, recruitment for terrorism, training for terrorism), Article 137 (Kidnapping), Article 216, paragraphs 1 through 3 (Distruction of or damage caused to public devices), Article 219 (Abuse of radioactive substances), Articles 223 (Attack upon airplane, ship or immovable platform), Article 224 (Endangering transport system by performing a dangerous act or using dangerous means), Articles 352 through 355 (Murder, Kidnapping, Attack upon or threatening a person under international protection) of this Code or any other criminal offence intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part in an armed conflict, when the purpose of such an act is to intimidate a population or to compel a government or an international organisation to perform or to abstain from performing any act, shall be sentenced to imprisonment for a term of between three and fifteen years.

(2) Whoever becomes a member of the criminal association, referred to in paragraph 1 of this Article, or commits an act with knowledge that such act contributes to the achievement of the terrorist association’s goal, shall be punished by imprisonment from one to eight years.

(3) The perpetrator of a criminal offence referred to in paragraph 1 or 2 of this Article who, by uncovering a terrorist association on time, prevents the perpetration of a criminal offence referred to in paragraph 1 of this Article or a member of a terrorist association who uncovers the association prior to committing, as its member or on its behalf, a criminal offence referred to in paragraph 1 of this Article may have his or her punishment remitted.

**Preparing Criminal Offences against Values Protected under International Law**

**Article 103 (OG 56/15)**

Whoever prepares for the commission of criminal offences referred to in Articles 88 to 91 (genocide, crime of aggression, crime against humanity) and Article 97 to 102 (terrorism, financing of terrorism, public incitement to terrorism, recruitment for terrorism, training for terrorism, terrorist association) of this Code, shall be punished by imprisonment from six months to five years.
In order to understand punishments in this area, it is important to note that for some criminal offences both the shortest and longest possible prison sentences were stated, and in some cases only the lowest sentences. The highest prison sentence in the Republic of Croatia is 20 years (Article 44 of CC). Therefore, in cases where it says that the perpetrators shall be punished with imprisonment for not less than 5 years, that means that the possible scale of punishment ranges between five and twenty years. An example for this is the criminal offence of terrorism (Article 97, para 3) referring to massive destruction or death caused to one or several persons.

There is also the sentence of long-term imprisonment between 21 and 50 years (Article 46 of CC) but the possibility of pronouncing it must be specifically stated in each article that defines a criminal offense. An example for this is also the criminal offence of terrorism (Article 97, para 4) referring to the intention of murdering one or several persons. In that case, the perpetrator shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

In the context of terrorism it is important to mention that Article 81 of the Criminal Code states that criminal prosecution in the Republic of Croatia is not subject to the statute of limitations for the criminal offences of terrorism referred to in Article 97, para 4 nor for the criminal offences of murdering a person under international protection (Article 352), or other criminal offences related to genocide, crime of aggression, crime against humanity, war crime, aggravated murder and other acts not subject to statute of limitations according to the Constitution of the Republic of Croatia or international law.

With respect to the European context of the Criminal Code, it is also important to note that the Code is harmonized with various European Union acts. In the field of terrorism, the important point is that the Code complies with the Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism and the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

Article 98, paragraph 1 regarding financing of terrorism was drafted in accordance with Article 2, paragraph 1 of the International Convention for the Suppression of Terrorism, whereby it is stated that such financing must be performed willfully, as emphasized in the International Convention. The criminal offences of public incitement to terrorism, recruitment for terrorism and training for terrorism were drafted in accordance with the articles of the Council of Europe Convention on the Prevention of Terrorism (OG – International Treaties 10/07)27.

As previously mentioned, the Criminal Code is not familiar with nor does it use the terms “violent extremism” or “radicalisation”. In that respect it is impossible to describe directly those criminal offences and the legal context in which they can occur and be processed. However, it is possible to explain and describe it through the circumstances in which the offence is committed, describing the motivation for the committed offence, and those are so-called hate crimes.

In the Criminal Code, hate crime is defined and described in Article 87, paragraph 21 as follows: “Hate crime is a criminal offence committed towards a person on the basis of that person’s race, colour, religion, national or ethnic origin, disability, sex, sexual orientation or gender identity. Such treatment shall be considered as an aggravating circumstance unless this Act expressly stipulates a more severe punishment.”

The definition of hate crime complies with the requirements of the Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law. In a separate section and for some criminal offences, it is stipulated as a qualificatory circumstance when the offence is committed out of hate. In other cases this circumstance should be taken as aggravating. The reason for a more severe punishment is the discriminatory motive manifested in violence towards a member of a group, which can have grave social consequences (escalation of violence towards a particular group, group members emigrate etc.).

The criminal offences which are characterised as hate crimes are mostly of violent nature. Even though these can be any criminal offences, some refer specifically to the situations in which they are committed out of hate. Those are the following criminal offences according to the chapters of the Criminal Code:

**Chapter X. Criminal offences against life and limb**
- aggravated murder (Art. 111.)
- female genital mutilation (Art. 116.)
- bodily injury (Art. 117.)
- severe bodily injury (Art. 118.)
- extremely severe bodily injury (Art. 119)

**Chapter XIII. Criminal offences against personal freedom**
- Coercion (Art. 138)
- Threat (Art. 139)

**Chapter XVI. Criminal offences against sexual freedom**
- Sexual intercourse without consent (Art. 152)
- rape (Art. 153)
- severe criminal offences against sexual freedom (Art. 154)

**Chapter XXX. Criminal offences against public order**
- provoking disorder (Art. 324)
- public incitement to violence and hate (Art. 325)

With respect to hate crimes, it is impossible to detect from the official statistics the actual motivation behind these crimes. Therefore, any information in that respect should be considered and interpreted cautiously. For example, a motive of an attack can be a person’s religious beliefs and/or nationality, but it can also be gender identity or disability. Hate crime is cumulatively defined so without the analysis of each file (dossier) it is not

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possible to know the exact motivation and whether radicalisation/violent extremism is behind it.

The official data related to criminal offences of terrorism (Chapter IX of the Criminal Code – Criminal Offences against Humanity and Human Dignity, Articles 97 to 103) has been analyzed from several data sources:

- analysis of the official data of the Croatian Bureau of Statistics which publishes annual reports on criminal complaints, charges and convictions for minor and adult perpetrators of criminal offences on the territory of the Republic of Croatia
- information obtained from the State Attorney’s Office of the Republic of Croatia which cooperated in this project through delivery of official data related to terrorism and hate crimes (consent was obtained from the State Attorney-General of the Republic of Croatia, Mr Dinko Cvitan).

The analysis will cover only the official data in the last three years, pursuant to the new Criminal Code (2011) which entered into force on 1 January 2013.

At the time of writing this Report, the data of the Croatian Bureau of Statistics on criminal complaints, charges and convictions for 2016 were not available. Therefore, the data presented will be for the period between 2013 and 2015.

**Minors (age 14 to 18)**

**In 2015**

- no criminal complaints, charges or convictions for the criminal offence of terrorism (Article 97 to 103)
- within this chapter of Criminal Code, there is one criminal complaint for the criminal offence from Article 106, paragraph 1 Trafficking in Human Beings involving a male minor who was co-perpetrator but the proceedings were not initiated, i.e. the State Attorney’s Office did not file a motion for sanctions.

**In 2014**

- no criminal complaints, charges or convictions for the criminal offence of terrorism (Article 97 to 103) nor any other criminal offence from Chapter IX of the Criminal Code.

**In 2013**

- no criminal complaints, charges or convictions for the criminal offence of terrorism (Article 97 to 103) nor any other criminal offence from Chapter IX of the Criminal Code.

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**Adults**

**In 2015**\(^{32}\)
- one criminal complaint for terrorism (Art 97, para 1, item 1) but against an unknown perpetrator which is why proceedings were not pursued. The criminal offence was committed in the territory of the Croatian capital, Zagreb.

**In 2014**\(^{33}\)
- no criminal complaints for the criminal offence of terrorism (Article 97 to 103)
- one male person was convicted for the criminal offence of public incitement to terrorism pursuant to Art. 99 of the Criminal Code (the complaint was filed in 2013). The act was committed in the territory of the city of Split, without any other participants and the perpetrator was sentenced to six to twelve months in prison but the sentence was replaced with community service.

**In 2013**\(^{34}\)
- only one criminal complaint for terrorism for one person who was convicted in 2014.

From the analysis of some other criminal offences committed by minors in the earlier period, between 2010 and 2012\(^{35}^{36}^{37}\), it is clear that there are several criminal complaints for the criminal offences of racial and other discrimination, however the State Attorney’s Office of the Republic of Croatia mostly did not initiate any criminal proceedings. In this case, we do not have the information on the basis of discrimination or whether any criminal offences were committed, and these offences could not have been particularly severe since no criminal proceedings were initiated. Therefore, it is not possible to conclude whether any radical extremism occurred in this area.

In order to obtain the data for 2016, we cooperated with the State Attorney’s Office of the Republic of Croatia and asked them to provide us with the relevant information. Regarding criminal offences of terrorism, the State Attorney’s Office informed us that in 2016 there were no recorded perpetrators of the criminal offences from Articles 97 to 103 (Chapter IX) of the Criminal Code (KZ/11)\(^{38}\).

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We also asked the State Attorney’s Office to provide us with the information on criminal offences committed out of hate, which were defined in the previously described Article 87 paragraph 21 of the Criminal Code (2011). It is also important to repeat that we CANNOT consider these criminal offences as a form of violent extremism because the motivation behind them is unknown and they cumulatively show a qualificatory circumstance of perpetration of some violent criminal offences. What we do know is that a form of discrimination occurred which could be on the basis of race, colour, religion, national or ethnic origin, disability, sex, sexual orientation or gender identity of another person. The records of the number of criminal complaints related to Article 87, paragraph 21 of CC/2011 are kept by the State Attorney’s Office cumulatively for adults, young adults and minors and it is not possible to show the data separately, nor is it possible to display the data according to sex.

### Criminal offences committed pursuant to Art.87. para 21 CC/11 – Hate Crimes[^39]

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reported</td>
<td>45</td>
<td>41</td>
<td>24</td>
</tr>
<tr>
<td>Dismissed</td>
<td>5</td>
<td>8</td>
<td>9</td>
</tr>
<tr>
<td>Indicted</td>
<td>10</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Convicted</td>
<td>4</td>
<td>3</td>
<td>9</td>
</tr>
</tbody>
</table>

The State Attorney’s Office informed us in the same letter that apart from the hate crime definition, the criminal offence of public incitement to violence and hatred (Article 325, Chapter XXX of the 2011 Criminal Code) was also introduced thereby transposing into the Croatian legislation the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law. The provision of the Article 325 CC/11 is mostly related to the so-called hate speech, even though some particular forms of hate speech are incriminating also pursuant to some other Criminal Code provisions. This criminal offence is mostly committed via Internet (Facebook) and the prevailing discriminatory bases involve religion, national or ethnic origin, sexual or gender orientation/identity. As it was previously stated, it is important to emphasize here that these criminal offences CANNOT be considered a form of violent extremism since the motivation behind it is unknown – these are cases of discriminatory speech against one group, on a certain basis of discrimination. This could for example be a hate speech case between groups of football supporters or a case of hate speech or discrimination on the bases of sex/gender or race directed towards black people or Roma, therefore a case of inciting to violence and hatred.

In the 2011 Criminal Code, this criminal offence is defined as follows:

Public incitement to violence and hatred
Article 325 (OG 144/12)

(1) Whoever through the press, radio, television, computer system or Internet, at a public rally or otherwise publicly incites or makes available to the public, through leaflets, images or other material inciting to violence or hatred towards a group of people or a member of a group on the grounds of their race, religion or ethnicity, origin, skin colour, gender, sexual orientation, gender identity, disability or any other characteristics, shall be punished by imprisonment for up to three years.

(2) Whoever organises or runs a group of three or more persons for the purpose of committing the offence referred to in paragraph 1 of this Article shall be punished by imprisonment from six months to five years.

(3) Whoever participates in the association referred to in paragraph 2 of this Article shall be punished by imprisonment not exceeding one year.

(4) The punishment referred to in paragraph 1 of this Article shall be applied to whoever publicly approves, denies or significantly diminishes the criminal offence of genocide, crime of aggression, crime against humanity or war crime directed to a group of people or a group member on the basis of their race, religion, national or ethnic origin or skin colour by means adequate enough to incite violence or hatred towards such a group or its members.

(5) For the attempt to commit the criminal offence referred to in paragraphs 1 and 2 of this Article, the perpetrator shall be punished.

The State Attorney’s Office also provided us with the data on these criminal offences through cumulative statistics for adults, young adults and minors for the last three years.

**Criminal offence of public incitement to violence and hatred (Article 325 of CC/11)**

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reported</td>
<td>17</td>
<td>36</td>
<td>44</td>
</tr>
<tr>
<td>Dismissed</td>
<td>6</td>
<td>23</td>
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<tr>
<td>Indicted</td>
<td>9</td>
<td>5</td>
<td>14</td>
</tr>
<tr>
<td>Convicted</td>
<td>8</td>
<td>8</td>
<td>14</td>
</tr>
</tbody>
</table>

**2C. National legislation connected to the specific needs of juveniles (under 18) suspected or accused of violent extremism or terrorism**

In the Republic of Croatia, the Juvenile Courts Act (Official Gazette 84/11, 143/12, 1448/13, 56/15) regulates all provisions related to young perpetrators of criminal offences (minors and young adults) in substantial criminal law, the provisions regarding
the courts, on criminal procedure and on execution of sanctions, as well as the regulations on criminal justice protection of children. In that respect, the Criminal Code provisions are used only to define the criminal offences, whereas the entire criminal procedure, trial and sanctioning are executed exclusively pursuant to the special Act which will be described in more detail in this chapter.

As previously stated, the minimum age for criminal liability in the Republic of Croatia is 14. In the legal sense, persons under 14 are considered to be children and are not criminally accountable. If they commit a criminal offence, it is not possible to react through the criminal justice system but rather this is done through the system of social welfare, pursuant to the Family Act and the Social Welfare Act.

The Juvenile Courts Act (JCA) distinguishes several age groups of young offenders (Articles 2 and 5 of JCA):

- Junior minor – age 14 to 16
- Senior minor – age 16 to 18
- Young adult – age 19 to 21

The sanctions imposed on minors are usually correctional measures executed within the social welfare system. The following correctional measures are imposed:

1. court reprimand,
2. special obligations (the total of 16 special obligations which will be later described),
3. referral to a correctional centre,
4. intensified care and supervision,
5. intensified care and supervision with daily stay in a correctional institution,
6. referral to a correctional institution,
7. referral to a reformatory,
8. referral to a special correctional institution

All of these correctional measures, whether executed in a community or in an institution, are executed within the social welfare system, in an open regime. Their duration in principle does not exceed two years. Only the measure of referral to a special correctional institution can last up to three years.

Only one measure, the referral to a reformatory, is executed in the system of judiciary, under closed conditions and it can last up to three years.

The purpose of possible special obligations is to direct to a specific treatment that is required for the minor. The court can select among the total of 16 special obligations. It is important to emphasize that the court can select one or several special obligations.

The court may impose the following obligations:

1. to apologise to the injured party,
2. to repair or compensate for the damage done by the offence, according to his or her own abilities,
3. to attend school regularly,
4. not to be absent from workplace,
5. to be trained for an occupation that suits his or her abilities and inclinations,
6. to accept employment and persist in it,
7. to dispose with income (finances) under supervision and advice of the person monitoring the correctional measure,
8. to participate in the work of humanitarian organisations or in the activities relevant for the community or the environment,
9. to refrain from visiting particular places or entertainment events and stay away from particular persons who have detrimental effect on him or her,
10. to undergo, with prior consent of his or her legal representative, a professional medical treatment or treatment related to drug addiction or other addictions,
11. get involved in individual or group work in youth counselling services,
12. to participate in training to obtain professional qualifications,
13. not to leave, for a long period of time, the place of his or her permanent or habitual residence, without special approval obtained from the centre of social welfare,
14. to have his or her knowledge of traffic regulations tested in the competent institution for drivers’ education.
15. not to approach or disturb a victim,
16. other obligations that are appropriate considering the criminal offence committed, and the personal and family circumstances of the minor.

Juvenile imprisonment is the only punishment that can be imposed on juvenile offenders in Croatia. It is imposed exceptionally, in the most severe cases of criminal offences. In principle, annually around 0.5% of all sanctioned minors are punished by juvenile imprisonment. Juvenile imprisonment is the punishment of deprivation of liberty that has some particularities with regard to the conditions in which it is imposed, its duration, purpose and substance (Art. 24 JCA). Juvenile imprisonment can be imposed only on a senior minor (age 16 to 18) for a criminal offence for which the Criminal Code provides a three-year prison sentence or a more severe punishment, where considering the nature and seriousness of the offence and because of the high degree of guilt, it would not be justified to impose a correctional measure. Juvenile imprisonment may not be shorter than six months nor longer than five years. However, in cases where the Criminal Code stipulates a long-term imprisonment for a criminal offence or in case of at least two concurrent criminal offences carrying a sentence of imprisonment of over ten years, juvenile imprisonment may last for up to ten years (Art. 25 JCA).

There are also security measures that can be imposed in addition to correctional measures or juvenile imprisonment, pursuant to Criminal Code provisions. Security measures are the following:

- Mandatory psychiatric treatment
- Mandatory addiction treatment,
- Mandatory psychosocial treatment,
- Prohibition to drive motor vehicles (only for senior minors),
- Prohibition on approaching, disturbing and stalking,
- Prohibition on internet access,
- Security supervision after the prison sentence has been fully served.
It was stated in the previous chapter that in the Republic of Croatia there are no minors who have committed any criminal offences of violent extremism and/or terrorism, and there are therefore no specific sanctions intended for them, nor any specific courts for such crimes. Neither are there any particular treatment programmes intended for such groups of minor offenders.

However, it is important to emphasize the individual character of all types of procedures involving minors in the framework of the Croatian juvenile justice system. Indeed, Article 8 of the Juvenile Courts Act explicitly states that in choosing a correctional measure, the court shall take into account the minor’s age, his or her physical and mental development and personal characteristics, the seriousness and nature of the offence committed, motives for, and circumstances in which he or she committed the offence, his or her behaviour after committing the offence, and in particular, whether he or she tried to prevent the occurrence of damage or made efforts to undo the damage; his behaviour towards the injured person and victim, his personal and family circumstances, whether he or she had a criminal record before committing that offence, whether he or she had been sentenced to a juvenile sanction; as well as all circumstances that may affect the choice of such correctional measure by which the purpose of correctional measures will best be achieved.

For the implementation of every juvenile sanction, it is important to develop an individual programme of procedure (Article 13 of the Act on implementation of sanctions imposed on minors for criminal offences and misdemeanours). This Act describes how an individual programme of procedure is developed following the analysis of the minor’s personality and behaviour, family situation and relations, education performance and school obligations, leisure and free time activities, acquired skills, interests and habits, in particular the needs of the minor, as well as other circumstances that can significantly influence the development of personal responsibility and prosocial behaviour.

From the stated provisions it is clear that in a case of radical and extremist behaviour in a minor, the justice system, as well as the social welfare system involved in the criminal proceedings, should consider such characteristics in a minor and bear them in mind while developing specific programmes and procedures for a minor, and selecting the sanction type.

Regarding the juvenile justice system, it is also important to note that the Criminal Code provisions on publishing judgments do not apply to minor offenders (Article 34 of JCA), i.e. the criminal offence enquiries and the procedure conducted with respect to a minor are confidential (Article 60 of JCA). Indeed, revealing the confidentiality of the proceedings involving a minor is a criminal offence (Article 75 of JCA). In that respect, the legislator has ensured the complete protection of identity and dignity of minor perpetrators of criminal offences, in the light of the special vulnerability of that demographic, thus reducing any possible secondary victimization, labelling or discrimination by the public. The information that is published and/or used on minor perpetrators of criminal offences can be used exclusively in aggregate form, in statistics, which does not risk any possibility of the identity of the minor being revealed.
Juvenile courts have jurisdiction in criminal cases involving juvenile perpetrators (Article 35 of JCA). There are special juvenile divisions consisting of juvenile panels and juvenile judges. They must all be specifically appointed to be able to judge in these cases. The same principle is used at the state attorney’s offices where special juvenile state attorneys are appointed. Both the juvenile judges and juvenile state attorneys must have strong interest in upbringing, needs and benefits of the youth, and must have basic knowledge of criminology, social pedagogy and social welfare for young persons (Article 38 of JCA). In this way, the legislator ensured the protection of young perpetrators of criminal offences, placing greater emphasis on the educational function of sanctions, as opposed to retributive and/or punitive functions.

According to the information available to the authors of this report (both written and oral information), no education programmes particularly aimed at juvenile perpetrators of terrorism and/or violent extremism have been conducted in the Republic of Croatia up to now, nor have there been any special treatment programmes focusing on this issue. The challenges for the Croatian system in this area (in the wider sense) are posed by the migrants who sometimes introduce themselves as minors, without any identification documents for the authorities to use to determine the exact age. They are sometimes placed in social institutions for the juveniles with behavioural problems, which can be a security risk. Nevertheless, they perceive Croatia as a transit country on their way to other countries of Western Europe so they don’t remain in the territory of the Republic of Croatia for a long time.

2D. National policy and strategies connected to the terrorism issue implemented in the country

The Republic of Croatia began taking systematic action with respect to terrorism in 2008 with the adoption of the National Strategy for the Prevention and Suppression of Terrorism (OG 139/2008) with the corresponding Action Plan for the Prevention and Suppression of Terrorism which analyzes in detail the activities and measures stipulated by the Strategy. At that time, led by the contemporary definitions of this complex phenomenon, the Republic of Croatia understood terrorism as a “preconceived, systematic, intentional use of violence or a threat to use violence against people and/or material goods, as means to provoke and take advantage of fear, within an ethnic or religious community, in public, in a state or the entire international community, with the objective of ensuring political, religious, ideological or socially motivated changes. One of the main characteristics of terrorism is that it is mostly practiced by non-state conspiracy organisations or groups that can be supported (directly or indirectly) by some other state or states and often by an organisation whose publicly declared intention and goals have no connections to terrorism, but through their concealed goals and activities they support terrorist actions. Terrorism also identifies itself with the intention to provoke devastating political and psychological consequences which can significantly surpass the goal itself.

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of a terrorist act. Terrorism is also determined by the intentions of those who resort to terrorism by creating an atmosphere of anarchy or provoking an excessive, repressive and non-selective response from the government, with the objective to compromise that government in the eyes of the public and thus justify terrorist means and intentions."
(The National Strategy, Art. 7). The Strategy’s objective is to create preconditions to fight terrorism. It is a systematic response on the part of the Republic of Croatia to new security challenges and risks. Considering that fight against terrorism is a priority of almost all countries in the world, this approach also presents a contribution of the Republic of Croatia to the national and international counter-terrorism efforts41.

The reasons behind the development of the Strategy were of a political and professional nature. The political reasons were primarily: (1) the international interest in Croatia’s political and legal approach to the suppression of terrorism, especially in the context of the European Union pre-accession negotiations at that time; furthermore, the adoption of strategic framework was proposed by (2) the European Commission, (3) members of the UN Security Council Monitoring Team for the supervision of the implementation of counter-terrorism measures, (4) NATO, (5) OSCE and (6) the Council of Europe. The professional reasons were (1) strengthening national security, (2) creating basic guidelines for further implementation of measures, and (3) developing a political attitude of the Republic of Croatia. The Croatian Government working group for the development of strategy consisted of a representative from the Office of the President of the Republic of Croatia, a representative of the Office of the National Security Council and representatives of the Ministry of the Interior, the Ministry of Foreign and European Affairs, the Ministry of Defence, the Ministry of Finance, the Ministry of Justice, the Ministry of Sea, Tourism, Transport and Development, the State Directorate for Protection and Rescue, the Security and Intelligence Agency, the State Attorney’s Office of the Republic of Croatia. The working group had an important sub-group of the Ministry of the Interior consisting of representatives of the Police Directorate, Border Police Directorate, Special Security Affairs Directorate, Administrative and Inspection Affairs Directorate and the Police Command.

The stated National Strategy was valid until 2015 when the Croatian Government passed the Decision on the adoption of the National Strategy for the Prevention and Suppression of Terrorism (NN 108/15)42 which is the current Strategy in force. It is important to note that the Republic of Croatia kept the same strategic direction43 in the new version of the Strategy, so the Strategy that is currently in force will be described in more detail.

The first chapter of the Strategy describes the “Response of the Republic of Croatia to the threat of terrorism”. It is clear that the purpose of the document is to define the framework of the Republic of Croatia with respect to the issues related to the fight against terrorism, providing guidelines for the upgrade of the existing mechanisms and the

development of new ones for the prevention and suppression of terrorism. Furthermore, it has been stated that the Strategy is based on the provisions, values and principles set in the Republic of Croatia Constitution, the United Nations Charter, the international and legal obligations, as well as goals and values set in the Counter-Terrorism Strategy of the European Union and in other basic counter-terrorism documents of the UN, EU, NATO, OSCE and the Council of Europe. It is particularly emphasized also that the Strategy focuses on the protection of human rights and freedoms, the rights of refugees and humanitarian work. The attitude of our country is clearly defined in the Strategy. The Republic of Croatia strongly condemns terrorism in all its forms and appearances, and supports the principle of zero tolerance to it. It is clearly stated in the Strategy that the Republic of Croatia considers terrorism as one of the most serious criminal offences which deliberately uses violence and/or threats to use violence, thereby trying to provoke the atmosphere of fear in order to achieve particular political, religious, ideological or other goals. Also, as the Strategy further states, terrorism completely denies the essence of democracy and acknowledged civilisational, religious and cultural values of contemporary world, including human rights and fundamental freedoms. In that respect, it cannot be justified nor can it be related to any national, religious, racial, ethnic or other origin. Therefore, the Strategy clearly states that the intention of the Republic of Croatia is to make impossible every activity performed by terrorists, terrorist groups and persons related to them on its territory. The Republic of Croatia invests a lot of effort to have the open political, economic, social, religious, cultural and other issues resolved in accordance with applicable laws and general international law (using, of course, generally accepted democratic means). What is particularly important in the context of this report is the fact that this document clearly describes that the attitude of the Republic of Croatia is that by strengthening the culture of peace and knowledge, tolerance and dialogue, mutual understanding and respect it is possible to remove the essential preconditions for the radicalisation of those attitudes that can potentially lead to the spreading and strengthening of terrorism. It is also clear that the Republic of Croatia believes that peace and security, development and human rights are mutually interconnected and supportive, and that the issue of suppression of terrorism also includes solving other global issues such as regional and global crises, conflicts and occupations, instabilities caused by so-called weak and failed countries, wide disrespect of the principle of the rule of law, as well as standards of efficient protection of human rights, poverty, climate changes, undeveloped school system etc. The Republic of Croatia is aware that terrorism is also connected to other asymmetrical threats (transnational organised crime, nuclear weapons, smuggling of drugs and weapons, document forgery, trafficking in human beings etc.) and that it has evolved with the appearance of new technologies, which means that it also represents indirect threat to peace and security. The conclusion at the end of the first chapter is that the objective of the Strategy is to ensure the basis (by implementing and developing all necessary national resources) for the highest possible level of protection from terrorism for the Republic of Croatia, and also to contribute most efficiently to international counter-terrorism efforts (supporting, in that respect, the central coordinating role that UN has in the global efforts to prevent and suppress terrorism). The Republic of Croatia is aware of the complexity of that phenomenon and recognizes, in that context, the significant role of academia, non-governmental associations, religious communities, private sector and media, as well as their cooperation and partnership.
In the second chapter, “Characteristics of contemporary terrorism as a threat to national and international security”, the Strategy defines the basic characteristics of contemporary terrorism. Since these characteristics are in line with prevailing contemporary concepts of this phenomenon, they will not be laid out for the purpose of this report.

The next chapter “Contribution to international counter-terrorism efforts”, emphasizes that contemporary terrorism knows no boundaries between states since it represents a global threat and the responses to it must be international and multilateral, expressing common basic values and interests of the international community. In this context, the Republic of Croatia recognizes its own responsibility and obligation to strengthen its national security and contribute to the security of its partners and allies. The Republic of Croatia contributes to counter-terrorism measures through political and diplomatic efforts, its development assistance, participation in international peace operations, its work in south-east Europe by cooperating with other countries, through international cooperation for the development of counter-terrorist conventions and protocols, the sharing of important information, experience and best practices, by strengthening cooperation in international legal aid and extradition issues, by researching new possibilities of terrorist threats and by developing adequate counter measures, as well as strengthening professional, technical, scientific and educational dimensions.

The chapter entitled “Anti-terrorism measures” is divided into the following topics or measures: a) prevention of terrorism, b) suppression of terrorism, c) protection against terrorism, d) damage repair and recovery from a terrorist attack, and e) prosecution and punishment. Each of these groups of measures will be briefly described below:

a. Prevention of terrorism

The Strategy lists the following measures of prevention:

- Disabling promotion and support of terrorism or incitement to terrorism in any way,
- Recognizing and preventing radicalisation and extremism that can potentially grow into terrorism,
- Preventing abuse of civil society institutions and non-profit sector for terrorist purposes,
- Encouraging research, analysis, sharing of experience and best practices with the objective of stopping the dissemination of extremist ideologies and to increase understanding and tolerance in society,
- Developing human resources for the fight against terrorism by designing new educational programmes and trainings for which it is necessary to create organisational and functional preconditions for the development of scientific and professional work in this area,
- Strengthening and developing all national capabilities for the prevention of terrorism,
- Establishing a national mechanism with key participants from the government, private and public sectors in order to detect and reduce availability and effects of internet contents which promote terrorist radicalisation, recruitment and training.
b. Suppression of terrorism

This group includes the following measures:

• All measures intended to disable any organisation and logistic actions with terrorist intentions
• Preventing any terrorist groups from appearing and operating on the territory of the Republic of Croatia, training their members or any entities related to terrorism whose actions are directed against the Republic of Croatia, other states and/or international organisations,
• Preventing any persons related to terrorism from crossing through the territory of the Republic of Croatia,
• Preventing any transfer and procurement of weapons, explosives and other items intended for potential terrorist activities,
• Preventing any use of weapons of mass destruction or military and dual-use items for terrorist purposes,
• Preventing the financing terrorist organisations, collecting funds or assisting them in any way or persons related to terrorism,
• Preventing all forms of recruitment for terrorist groups whose actions are directed against any country
• Preventing criminal activities that can be directly and indirectly related to terrorism (transnational organised crime, dissemination of chemical, biological, radiological, nuclear weapons and substances, smuggling weapons and explosives, military and dual-use items, narcotic drugs and other goods, forgery of documents and money, illegal migrations and trafficking in human beings).

c. Protection against terrorism

The Strategy anticipates the following protection measures:

• Establishing a protection system of a critical infrastructure while supporting and implementing the sector-specific measures of protection already in place together with plans and responsibilities,
• Establishing a system for securing continuation of critical infrastructure activities,
• Strengthening the civil protection system,
• Strengthening checks for possible cyber attacks,
• Developing and strengthening capabilities for the protection of people and assets,
• Protection of diplomatic, consular and other offices of the Republic of Croatia abroad,
• Informing Croatian citizens and legal persons about the level of terrorist threats in their countries of destination or where they do business,
• Protection of diplomatic, consular and other foreign offices on the territory of the Republic of Croatia, adjustments of the existing concepts in the area of national security and legal framework for the purpose of establishing a management system for extraordinary and crisis situations, therefore in case of terrorist activities,
• Strengthening the system of state border protection and supervision,
• Strengthening the supervision of armament and disarmament, as well as of the system for guarding weapons, explosives and other means that can be used to commit terrorist attacks,
• Strengthening the supervision of transport and use of dual-use items.

d. Damage repair and recovery from a terrorist attack

The following measures are stipulated here:

• Using the appropriate national capabilities, depending on the consequences of a terrorist act, in order to implement civil protection measures and repair damage,
• Strengthening and developing all national capacities required to repair the damage caused by an attack and re-establish the damaged systems,
• Strengthening and developing civil protection mechanisms and repairing the damage caused by the terrorist use of chemical, biological, radiological and/or nuclear weapons and substances,
• Strengthening bilateral, regional and multilateral cooperation in the area of prevention of terrorism, reaction to terrorism and providing assistance after a terrorist attack,
• Strengthening and developing procedures and methods for a quality and timely warning and for informing the media and public,
• Using the management system in extraordinary and crisis situations for the purpose of counteracting the consequences,
• Developing mechanisms and measures to provide assistance to victims of possible terrorist attacks.

e. Prosecution and punishment

The last group of measures, those directed to criminal pursuit and punishment, include the following:

• Harmonising national criminal law with international convention law and the acquis communautaire of the European Union,
• Improving cooperation and coordination in order to exchange relevant information and intelligence information between the authorities responsible for detection and the law enforcement bodies at national and international levels,
• Strengthening the international police cooperation and international legal aid in criminal matters with third countries and the judicial cooperation with the EU member states,
• Strengthening the performance of financial investigations through a prompt exchange of relevant data at national and international levels,
• Stipulating adequate criminal sanctions with the possibility of applying the corresponding security measures, special obligations and other alternative measures in order to prevent radicalisation and to impede the possible establishment and operations of legal persons related to terrorism.

In the following chapter entitled “Human rights and freedom of information” it is stated that the Republic of Croatia guarantees in its Constitution, laws and transposed international treaties the freedom of thought and expression, freedom of press, speech and public opinion. Furthermore, all of the measures must be in accordance with the human rights and freedom standards, the counter-terrorism measures must be proportionate and in compliance with the laws. Therefore, accordingly, they must not lead to inequality of
persons with respect to race, nationality, ethnic origin, sex, social heritage or political opinion. It is also mentioned that the category of admissible rights and freedoms does not include dissemination of terrorist ideology, criminal associations and conspiracy nor any terrorist acts.

The implementation and coordination of the Strategy is the responsibility of the National Commission for the Prevention and Suppression of Terrorism (established by the Government of the Republic of Croatia), which is in charge of developing proposals for concrete operating procedures, developing cooperation with civil society, establishing public-private partnership in the area of detecting, preventing and suppressing terrorist activities and training the business sector.

To sum up, we can conclude that the Strategy is harmonized with international recommendations and guidelines and based on contemporary findings in this area. With respect to the measures, there is an entire spectrum of these, from the preventive measures to those directed towards criminal pursuit. In the context of this report, it is particularly important for the Republic of Croatia to recognize the importance of prevention of radicalism and extremism. There is also an emphasis on the importance of recognizing and preventing these occurrences, primarily by designing educational programmes in order to prevent the dissemination of ideology. Furthermore, in the area of law enforcement measures, the Republic of Croatia intends to harmonise its law with international guidelines, to establish cooperation and coordination among various authorities and to improve adequate sanctioning.

We have also noticed that there are no measures specifically intended for juveniles, be it specific preventive programmes or an improvement of a juvenile judiciary system. Indirectly, we see some indications of working with this specific group in the fact that the preventive measures emphasize education for the purpose of preventing radicalisation. Also in the group of measures related to prosecution and sanctioning, one of the measures is “stipulating adequate criminal justice sanctions with the possibility of applying adequate security measures, special obligations and other alternative measures to prevent radicalisation and to prevent the occurrence and operations of legal persons related to terrorism” (Measure e). Considering that in the Croatian justice system special obligations are a set of correctional measures intended for juvenile perpetrators of misdemeanours (the Misdemeanour Act), or of criminal offences (Juvenile Courts Act), we can see the intention of the strategy’s author to recognize juveniles as a group of potential perpetrators. Furthermore, in the set of preventive measures there are those that can also refer to a group of juveniles, primarily “... developing new programmes of education and training...”,”....reducing availability and effect of the Internet contents promoting terrorist radicalisation, recruitment and training...” since we know that it is precisely young people who are the best target for such preventive activities. However, it would have been much better if the Strategy had separated the policies intended for juveniles and those meant for adults. We could expect that in the corresponding Action Plan the measures would be divided according to the criteria of age, but unfortunately the new Action Plan has not yet been adopted. In the last one that derived from the 2009 Strategy, there are also no measures focusing on juveniles.
2E. Preventive programmes or alternative measures for juveniles to counter-terrorism in the country

In the Republic of Croatia there are no specific prevention programmes nor alternative measures in the domain of counter-terrorism.

The development of such programmes and/or measures is in its initial stage which is clear from some other activities and efforts in this domain, primarily conducted by the non-governmental sector.

In the fight against racism, xenophobia and ethnic exclusivism, the Centre for Peace Studies (further in the text: “CPS”) is particularly active. Within its framework of activities, the CPS conducts a programme focusing on the following topics: migrations, asylum and integration, discrimination, extremism, hate speech and inter-ethnic radicalisation, racism and xenophobia, anti-fascism, inter-ethnic relations and institution capacities for the protection of human rights and equality. Throughout 2016, various activities were implemented through different methodological approaches such as intercultural mediation and social support in integration, establishing the intercultural social centre, legal aid and strategic litigation, monitoring and supporting policy changes in the Republic of Croatia and the EU, public campaigns and awareness raising, cultural production, researches and expert analyses, professional education and changes in education policies while developing intercultural education programmes.

Some of the programme activities conducted in the last year, in the area of activism and public media work include: participation in the initiative Refugees Welcome established in 2015 which provided assistance and support to refugees in the winter transit accomodation centre in the Republic of Croatia until the so-called Balkan Route was closed; the media campaign “There is no them and us. We’re all people”; the organisation of protests. Regarding direct work and providing support to refugees, the CPS cooperates with volunteers to provide direct support to refugees (e.g. workshops in reception centres for asylum seekers), they provide support to the first migrants’ association The Africans Society in Croatia and are implementing the IPA RAX FREE project with them. They have also registered a Cooperative for intercultural cooperation called A taste of home which offers catering service and an Arabic language course. They have also initiated a choir called “Domestic guests” with the objective to spread interculturality in the Croatian society. The Centre for Peace Studies is also active in supporting public policies, researches and expert analyses in this area. They actively work on awareness raising and providing legal aid and strategic litigation. It is important to mention that in 2016, the CPS held three education programmes for judges and three education programmes for state attorneys on the topic of anti-discrimination legislation. Then, within the Peace Studies, two study courses were held: “Post-colonialism and migrations” and “Emancipation of cultural pluralism in the times of exile” with the mentor group (Anti)Passport: a document for everybody.  

Furthermore, the civil society association “Pragma” was involved in the RAN – Radicalisation Awareness Network\(^{45}\). In their work within the said Network, they organised a professional conference and presented one of the Network’s fields of work – the communication and narrative in the prevention of radicalisation. The meeting took place on 23 March 2017 at the House of Europe, under the title “Communication tools and prevention of radicalisation”. This event also commemorated the European Day in Remembrance of Victims of Terrorism. The welcome speech was given by the Head of Department for political reporting and analysis at the European Commission Representation Office in Croatia. The lectures covered the following topics: Working with adolescents and identity crisis (J. Adamlje, Association Pragma), (Efficient) communication tools in the prevention of radicalisation (prof. Labaš, the Croatian Studies of the University of Zagreb), messages from the Network for raising awareness of radicalisation (S. Erdelja, co-manager of the RAN group for social welfare and health care). Apart from that, employees of the Pragma association are being educated in this field and they participate in relevant conferences and meetings (the seminar on Lone Actors in January 2016., a training on counter-narratives and alternative-narrative campaigns etc.).

With respect to the programmes, projects and activities organised by the state institutions, the Police Directorate began in 2017 to implement the National prevention project called “Together against hate speech” with the objective to promote the culture of tolerance and non-violence, to prevent all forms of hate speech as the socially unacceptable form of behaviour, and finally to prevent crime motivated by different forms of hatred.

It is also implemented in cooperation with other competent state institutions, local and regional government units, academic and scientific community, sports organisations, clubs and associations, relevant civil society organisation, media, educational institutions, athletes, musicians, artists and other prominent members of society. The project consists of various concrete preventive activities focused on the prevention of different forms of hate speech towards certain social groups or their members because of their particular characteristics or opinion, whereby the origin of hatred is based on some of the discrimination bases. Precisely led by this idea on the importance of a joint effort in creating a healthy social environment which promotes the fundamental human right to the freedom of speech, and simultaneously excludes and condemns hate speech, a comprehensive programme was designed to cover a range of preventive topics.

The first planned activity within the presented Project was implemented in the City of Rijeka which has set a model to be followed in the future by all other Police Administrations that will implement it also in their local community.

The Project has two components:

1. The component “Say no to hate speech” – in this component the prominent persons from the public, social, political, cultural and sports life, the representatives of religious communities, civil society organisations, supporters’ associations, professional organisations, representatives of national minorities and other prominent members of the society send brief and clear messages against hate speech from the perspectives

of their institutions. Their messages are recorded and published on youtube channel of the Ministry of the Interior and on the project web site.

2. The second component focuses on the organisation of a public event in the open air during which young people send messages to the public against hate speech; it is intended primarily for pupils of primary and secondary schools, students, young people and wider public.

In the upcoming period, the project activities will be organised at the national level on the following topics: (1) prevention of hate speech at sport events, (2) hate speech towards national minorities, (3) hate speech towards members of the Roma community, (4) hate speech towards the LGBTQ persons, and (5) hate speech on the Internet and social networks.

At the County level, there will be at least one preventive activity in each county, depending on the problems present in that particular county which are likely to generate hate speech.

For project purposes of educating and promoting prevention, a flyer was created under the title “Say no to hate speech” and distributed to all police administrations. Also, a special web site was designed under the title “No to hate speech” which will promote the prevention of hate speech on the Internet and social networks.

We can conclude that in the Republic of Croatia, even though a systematic network of interventions doesn’t exist in this domain, there are certain efforts focusing on the prevention of radicalisation, extremism and terrorism. Considering the overall sociodemographic, political and migration context, these efforts are in their beginnings and such activities are primarily directed to provide humanitarian aid, strengthen and support the refugees and migrants however they indirectly and potentially contribute to the prevention of radicalisation. It is also evident that the state institutions are primarily focused on the prevention of hate speech and discrimination in general, and not specifically to the prevention of radicalisation and extremism. Taking into account the information stated in other parts of this report, and specifically considering the fact that this type of behaviour has not spread in our country, this trend is no surprise. However, it would be wise at the government level also to strengthen the projects and programmes in this domain.
3. Administrative measures in the counter-terrorism context

The European Union has developed a comprehensive administrative system of measures for the fight against terrorism representing the legal, political and action-related basis for:

- **prevention** (EU Strategy for the fight against radicalisation and recruitment)
- **protection** (Passanger name record data, EU list of persons and entities involved in acts of terrorism and subject to restrictive measures)
- **prosecution** (a new legislative framework for the prevention of money laundering and financing of terrorism), and
- **response to terrorist violence** (managing the consequences of attack, coordination of responses to crises, civil protection development, risk assessment development, best practice exchange in relation to providing help to victims of terrorism, cooperation with international partners) (Polovič, 2017).

All Member States participate in this system of measures.

Some administrative measures and activities in the context of terrorism prevention and suppression as envisaged by the Action Plan for the prevention and suppression of terrorism are as follows:

### 3.1. Prevention of terrorism

3.1.1. Measures for preventing any promotion or invitation to terrorism, as well as incitement to terrorism in any way on a national and international level:

- Prohibition to enter into the RoC and to distribute illicit means used to promote and incite to terrorism.

3.1.2. Measures for prevention of abuse of legal institutions for terrorist purposes on national and international levels:

- Applying regulations in the security check procedure and the procedure of assessing reliability and confidentiality of physical/legal persons who need security clearance to be able to access classified information.

### 3.2. Suppression of terrorism (terror)

3.2.1. Measures for the prevention of using the RoC’s territory to maintain the existence and activities of terrorist groups or carry out training, as well as all other persons and
entities related to terrorism, whose actions are directed against RoC, other countries and/or international organisations:

- Prevent any registration for the legal persons who would use the territory of RoC for terrorist activities.
- Adequate technical equipment and improvement of the border control and supervision system for the purpose of detecting any persons, goods or entities related to terrorism.
- Adequate and timely implementation of measures for the supervision, prohibition or prevention of movement as well as temporary or permanent residence for the persons/foreigners in RoC, with the objective of preventing and suppressing illegal migration and other forms of illegal activity; if not treated adequately, this could present a potential danger of terrorist abuse.

3.2.2. Measures for the control and supervision of the transit of all persons related to terrorism through the territory of RoC:

- Checks on people, vehicles, documents and objects at border crossings.
- Introduction of biometric passports.
- Visa regime.

3.2.3. Measures for preventing financing and collecting funds or in any way assisting terrorist organisations or persons related to terrorism:

- Monitoring of suspicious transactions and termination of their execution.
- Implementation of guidelines and risk assessment in relation to money laundering and financing of terrorism.
- Monitoring transactions identified by trustworthy sources that finance or support terrorist activities and involve particular terrorist organisations.

3.2.4. Measures for the prevention of criminal activities that can be directly or indirectly related to terrorism:

- Activities of national committees for the issuing of export permits for the military or dual-use goods, as well as other committees competent for monitoring the stated problems.
- Checks at border crossings.
3.3. Protection from terrorism (acts of terrorism)

3.3.1. Measures for the protection of legal persons, products and services, as well as facilities that are particularly important for the defence of RoC.

3.3.2. Measures for the monitoring of operations and movements in the facilities and plants of the crucial/vital infrastructure.

3.3.3. Protection measures for diplomatic, consular and other offices of RoC abroad.

3.3.4. Providing information to Croatian citizens and legal persons on the level of terrorist threats in their countries of destination or where they do business.

3.3.5. Protection measures for diplomatic, consular and other foreign offices and missions on the territory of RoC.

3.3.6. Measures for state border protection and monitoring.

3.3.7. Measures of monitoring and disarmament, the system of guarding and destroying weapons, explosives and other means be used to commit terrorist attacks.

3.3.8. Measures of supervision of transport and use of dual-use items.

3.4. Legal infrastructure, criminal prosecution and processing

3.4.1. Meeting international and legal obligations of RoC in relation to the suppression of terrorism, in particular the international restrictive measures.

3.4.2. Law enforcement and prosecution of perpetrators, co-perpetrators, instigators, aiders and abettors and/or other persons in any way related to terrorist activities.

3.4.3. Preventing the existence and operations of legal entities related to terrorism.

3.4.4. Implementing the measures of freezing and confiscating assets to physical and/or legal persons related to terrorism.

However, as the author Polović states (2017), “the complex legal, bureaucratic regulations as well as the declared unity and solidarity are increasingly fading before various and often opposite interests among the European Union member states which lack unity and are therefore unable to find the suitable response to multiple security challenges." Some disadvantages of the implementation of this system are found in the poor organisation, lack of financial resources, staff and equipment, lack of cooperation and sharing of intelligence data, different attitudes towards the strengthening of security structures, i.e.
towards the increase in the powers of intelligence, investigation and police authorities, as well as the monitoring of internal borders (Polović, 2017). A good example of potential limitations is the fact that Croatia (following the European example) transferred one part of the public security system, e.g. security checks at airports, to security companies (which also often secure public events, shopping centres, banks and other events/institutions at risk of being attacked).

Furthermore, none of the measures is specifically focused on juveniles which is also a disadvantage and a limitation. It is important to note that this is an old action plan. Therefore, the new action plan (based on the new Strategy) will probably introduce some corrections in line with the current UN and EU standards, with the new strategy and the applicable Croatian legal framework.

Conclusions

• The main strategic framework for terrorism is the Security Strategy for the Republic of Croatia,

• in 2008 the Republic of Croatia adopted the National Strategy for the Prevention and Suppression of Terrorism\(^46\) which was replaced by the new National Strategy for the Prevention and Suppression of Terrorism in 2015,

• at the implementational level, the Action plan for the prevention and suppression of terrorism passed in 2012\(^47\) is still relevant,

• the President of the Republic of Croatia and the Government of the Republic of Croatia coordinate the work of security and intelligence agencies through the National Security Council. The Council for the Coordination of Security Intelligence Services coordinates operationally the work of security and intelligence agencies, whereas the administrative work for the two Councils is performed by the Office of the National Security Council (Security and Intelligence Agency, 2016),

• the new 2015 Strategy defines terrorism as “one of the most serious criminal offences which uses planned and intentional violence and/or threatens to use violence and thereby intends to create an atmosphere of fear, in order to achieve certain political, religious, ideological and other objectives. Terrorism also completely negates the essence of democracy and the acknowledged civilisation, religious and cultural values of the contemporary world, including human rights and fundamental freedoms, therefore it does not have and cannot have any justifications nor can it be related to any national, religious, racial, ethnic or any other origin.”

\(^46\) OG, 139/08

\(^47\) OG, 136/12
• publicly available reports of the Security and Intelligence Agency (SOA) state:

– 2014 report states that the “trend of accepting radical interpretation of Islam in the countries of South East Europe has been growing” which is visible in the numerous ‘jihadists’ who leave Europe to fight in Syria and Iraq as members of radical Islamist groups. It is concluded that no Croatian citizens have been identified among the ‘jihadist’ troops, but that the territory of the Republic of Croatia is used as a transit area. However, SOA believes that the persons who return to their home countries after having participated in the ‘jihadist’ troops present a significant security risk. The factor of risk associated with those persons is in the fact that they are often additionally radicalised by having participated in the armed conflict, they are traumatised by the war experience and also trained for combat

– 2015 report states that the level of terrorist threat on the territory of the Republic of Croatia is low, however, in the context of a global growth of terrorist threats, this should not be taken for granted. It was discovered that six individuals who have Croatian as well as some other citizenships, spent a certain amount of time on the territory of the so called Islamic State. Prior to their radicalisation, these individuals had moved out of Croatia or never even lived in Croatia. The report also mentions that in Croatia there are cases of radicalised women who go to the so called Islamic State in the capacity of wives or future wives of “jihadists”. There is also one case of a minor, a Croatian citizen, who had the intention to join Islamist groups in Syria. “The young man became radicalised on the Internet where he entered into direct contact with the “jihadists” from Syria who were promoting fighting for the so-called Islamic State. In discussions with his family and as a result of psychological help that was provided to the young man, the problems and dilemmas were identified and then resolved. In the end, the minor abandoned his radical views and decided against fighting for “jihad”.

– 2016 report points to the increased level of terrorist threat for the entirety of Europe, including Croatia. Particular attention is drawn to the brief description of one case when a Croatian citizen was kidnapped in Egypt in the summer of 2015. The Egyptian branch of ISIS claimed responsibility for this case.

• within the Ministry of the Interior, the issues related to the prevention and suppression of terrorism are in the competence of the Service for Terrorism which is a structural unit of the Anti-terrorism and War Crime Department within the Criminal Police Directorate of the General Police Directorate.

• cases involving children (under 18) will be dealt with by police officers of the Department for juvenile delinquency and crime committed against youth and family of the General Crime Service of the General Crime, Terrorism and War Crime Sector.

• the current Croatian Criminal Code places the criminal offences related to terrorism in Chapter IX Criminal Offences against Humanity and Human Dignity. In the context of this project, it is important to state that the Criminal Code is not familiar with nor does it use the terms related to violent extremism or radicalisation. These terms are not used in the Croatian criminal justice legislation, only the terms related to terrorism are used.
• violent extremism can be explained and described through the circumstances in which a violent offence is committed, describing the motivation for the committed offence, and those are the so-called hate crimes within the Criminal Code (category of violent criminal offences) - Hate crime is a criminal offence committed against a person on the basis of that person’s race, colour, religion, national or ethnic origin, disability, sex, sexual orientation or gender identity. Such treatment shall be considered as an aggravating circumstance unless this Act expressly stipulates a more severe punishment,

• one adult was accused in 2013 for a crime in which he publicly invited citizens to perform terrorist acts (convicted in 2014 and sentenced to community service),

• no minors/children (<18 years of age) have been accused or prosecuted in any way for terrorist crimes in the Republic of Croatia,

• there have been cases of hate crimes committed by juvenile offenders (14-18 years of age) but these criminal offences cannot be considered a form of violent extremism because the motivation behind them is unknown and they cumulatively show a qualificatory circumstance of perpetration of some violent criminal offences,

• according to the information available to the authors of this report (both written and oral information), no education programmes particularly directed towards juvenile perpetrators of terrorism and/or violent extremism have been conducted in the Republic of Croatia up to know, nor have there been any special prevention or treatment programmes focusing on this issue. There are wider social-inclusion and/or equality programmes conducted by NGOs that mention and focus on topics related to terrorism/violent extremism and/or radicalisation - but more in connection to general human rights, developing social tolerance and integration of immigrants.
FRANCE

The Judicial Youth Protection Services (DPJJ) of the Ministry of Justice
Introduction: context and issues in France

Over the last few years, France has seen repeated terrorist attacks in 2015 and 2016, together with the dangers related to the departure and return of families and teenagers to and from the zone of the Iraq-Syria conflict, highlighting the issue of violent radicalisation, an endogenous threat often carried out by young men between the ages of 20 and 30.

Violent radicalisation cannot be reduced simply to terrorism alone. It can be defined as a “process in which an individual or a group adopts a violent form of action, directly related to an extremist ideology with a political, social or religious content, which challenges the established order on the political, social or cultural level” ¹.

Violent radicalisation thus covers three cumulative characteristics:

- an incremental process;
- the espousal of an extremist ideology;
- the adoption of violence as a legitimate form of action;

The violent radicalisation of minors or of young adults, a recent phenomenon by its extent and media coverage, has nurtured representations and fears for which the professionals in contact with such teenagers and their families were ill prepared.

Whilst no French minor has taken action and committed an attack, the number of minors criminally indicted for offences related to terrorism is constantly increasing. Such proceedings are undertaken by the anti-terrorist section of Paris Regional Court and the minors handled by the Judicial Juvenile Protection Services (DPJJ) for acts qualified as criminal conspiracy with a view to a terrorist undertaking, advocating terrorism, and also offences relating to terror attacks and in particular offences of a racist nature and the offences introduced by the Law of 11 October 2010 against the concealment of the face in public.

The future prospect of the return of families from the areas of the Iraq-Syria conflict, where the number of minors is estimated to be 460, will further increase the number of these cases. Beyond their handling within the criminal framework, the DPJJ could well be called upon to manage such minors within the framework of educational assistance, sometimes with parents in prison or still in the war zone.

The number of such situations is small compared to the number of cases actually managed, specifically between 1% and 2% of the minors managed by the DPJJ. The seriousness and the extreme violence of the acts carried out or planned show the importance of paying ever greater attention to such minors through a reinforced educational approach.

¹ France has adopted the definition of radicalisation as proposed by Farhad Khosrokhavar, sociologist and tutor at the School for Advanced Studies in Social Sciences.
1. The phenomenon of radicalisation of young French people

1A. Historical background and definition

**Historical overview**

The term “terrorism” first appeared in the period of the Terror during the French Revolution. The word then meant the violence of the State. Its meaning gradually changed, putting the emphasis more on the aspect of violence than on any political project. At the end of the 19th century, there occurred what researcher Ami-Jacques Rapin called “a decisive semantic shift for the future of the debate on terrorism”.

The idea came to be included, permanently, in the list of actions of groups fighting against the State.

**The terrorist threat related to the Iraq-Syria conflict**

France is exposed to a major terrorist threat. The year 2015, starting with the attacks of 7, 8 and 9 January, ended tragically with those of 13 November 2015. In 2015, 149 people were killed in terror attacks carried out in France.

2016 will remain marked by the terrorist threat, with 89 people killed in France as from the start of the year, including 86 in the attack perpetrated with a truck on 14 July 2016 in Nice.

This terrorist threat is closely linked to the Iraq-Syria conflict. It stems from veterans returning to Europe from the war zone, where they had been given military training, and planning to carry out terrorist actions directly driven by the Islamic State, which has explicitly declared France to be a priority target and which regularly calls for new terrorist attacks.

The threat also stems from more or less isolated actions perpetrated by radicalised individuals, not necessarily having any operational link with the Islamic State but driven by a copy-cat motivation.

**The involvement of French nationals in terrorist attacks carried out in the Iraq-Syria zone**

It is proven that Frenchmen are or have been in positions of responsibility within terrorist organisations operating in the Iraq-Syria zone. It has also been proven that French nationals who died in Syria have lost their lives in suicide attacks. It is also recognised that Frenchmen having left to fight in Syria or in Iraq have taken part in the atrocities committed by the Jihadist groups against the Syrian population, in particular in the towns of Al Raqqah and Azzaz.
Finally, as from the end of 2014, several Frenchmen have appeared in propaganda films from the Islamic State showing executions and calling for an armed Jihad and the perpetration of terrorist actions, in particular in France. Some have made a point of recruiting French nationals or French-speaking people and organising their arrival in Syria.

**Actions and planned terrorist actions in France**

The knife attack against the officers of the police station of Joué-les-Tours on 20 December 2014 by a person who had never been in the Iraq-Syria zone, but whose action was hailed by the terrorist organisation, was evidence that the threat also existed in France.

In January 2015, a commando of Franco-Belgian Jihadists who were planning a terrorist attack in Europe was disbanded.

In France, one of the perpetrators of the attacks of 7, 8 and 9 January 2015 claimed he had acted in the name of the Islamic State.

Less than one month later, after being turned back from Turkey while attempting to reach Syria, a French national carried out a knife attack on three soldiers on duty in Nice as part of the Vigipirate programme.

On 19 April 2015, the arrest in Paris of a man presumed to have been involved in the murder of a driver committed the same day in Villejuif brought to light a planned terrorist attack on churches and market places in the Paris region, involving French nationals who were active in the Iraq-Syria zone in the ranks of the Islamic State.

A few months later, on 26 June 2015, a man attempted to carry out an attack on the head office of the Air Products company in Saint-Quentin-Fallavier, after staging the decapitation of his employer.

The attack in the Thalys train between Amsterdam and Paris on 21 August 2015 signalled a new development: whilst the mode of operation and the relatively individualist nature of the terrorist attacks were still there, the terrorists appeared to be shifting towards attacks aimed indiscriminately at the general public, with the aim of increasing the number of potential victims and raising the impact of their actions on public opinion to an even higher level.

The attacks in Paris on 13 November 2015, which killed 130 people, dramatically confirmed the threat of terrorist actions indiscriminately aimed at the population at large. Carried out by a dozen kamikaze terrorists operating as a commando force, those attacks evidenced the extreme dangerousness of Jihadists having joined the ranks of the Islamic State in the Iraq-Syria zone and returning to Europe, driven by terrorist plans.

2016 appears to have been marked by an increase in terrorist attacks by lone wolves who had not served in the ranks of the Islamic State, but who responded to the calls for murder from that organisation: the attack on a police station in the 18th district of Paris on 7 January 2016, the knife attack on a teacher in a Hebrew school in Marseille on 11
January 2016, the double murder of two police officers in Magnanville, the truck attack on the Promenade des Anglais in Nice during the festivities of 14 July 2016 killing 86 people, the killing of a priest in Saint-Etienne du Rouvray on 26 July 2016.

In 2017, special mention must be made of the attack on soldiers at the Carrousel du Louvre on 3 February, the attack in Paris Orly airport on a patrol as part of the Sentinelle operation on 18 March, the attack of 20 April 2017 on the Champs-Elysées, where one police officer was killed and two others injured, and the attempted attack in the same place on 19 June 2017.

**Definition of the terms**

Terrorism must be differentiated from any other form of delinquency or criminality by the fact that the origin, purpose and consequences of the violence are political.

It has a central ideological dimension, seeking to deliver a message, to break into the political arena in order to transform it or at least force it to change.

Terrorism thus corresponds to a drive for political subversion, to “an effort for political destabilisation”, to take up the expression of Didier Bigo and Daniel Hermant. It is a war without known belligerents, without any clearly defined battlefield and without any foreseeable face to face encounter.

Judge Antoine Garapon has written that contrary to the ethics of loyal combat which call for equality of arms, terrorism “plays hide-and-seek with the State”. The war is therefore felt everywhere but seen nowhere. The real target of the terrorist is not the power of a State but its political integrity, namely its collective identity, mutual confidence, safety and security. It is in that respect that terrorism is the source of genuine destabilisation.

Terrorist action questions the capacity of the political powers to ensure the essential clauses of the social contract because it upsets the security of the State and the tranquillity of the population. Terrorist action is a paradigm of a crisis situation.

To succeed, that crisis must lead to a security crisis which in turn generates a psychological crisis. It has the faculty of stirring up radical fear, of penetrating the imagination of the community, of “creating insecurity for an entire population”, in the words of Pierre Joxe. That particular status has nothing to do with the cost in human lives, when compared to the other causes of violent death (road accidents, gang warfare, etc.).

The psychological trigger involved is the determination to awaken the life instinct and provoke moral panic. The advice from Hannah Arendt is a good summary of the meaning: “Think the event to avoid caving into the headlines!”

This irruption into daily life must trigger a response from the powers that be. Its meaning must not therefore be misunderstood.

The definition of this concept reveals the primarily political dimension of terrorism. Mireille Delmas-Marty summed it up very clearly: terrorism is a “concept which is more political than legal”.
1B. Current status of the phenomenon of radicalisation in France

A small number of minors concerned

The latest data available shows that whilst minors are exposed to the phenomenon of violent radicalisation, the problem only affects in reality a very limited number of minors already being managed:

- less than 1% of the juveniles entrusted to the DPJJ are targeted by a civil or criminal measure pronounced within the framework of the fight against terrorism;
- in all the other cases managed, less than 1% of the minors proved to be turning to radicalisation.

The most frequent forms of radicalisation

The minors managed by the PJJ for facts linked to radicalisation can be broken down into four categories:

- minors prosecuted within the framework of criminal proceedings linked to terrorism;
- minors reported as being subject to a risk of radicalisation, monitored as part of the protection of children;
- minors managed by the DPJJ for other reasons, reported because of the presence of “signs of radicalisation”;
- minors managed as part of the protection of children because of the radicalisation of their parents.

1st situation: minors prosecuted within the framework of criminal proceedings linked to terrorism.

Whereas as of 1st August 2015, 67 minors were charged for such criminal offences linked to terrorism, as of 1st August 2016 the number had risen to 178 minors and young adults. Of these, 110 minors were charged with advocating terrorism, 35 minors with criminal conspiracy with a view to committing a terrorist act by the anti-terrorist section of the Public Prosecutor's Office of Paris, 23 minors for offences of a racist nature related to the terror attacks and 4 minors for breaking Law N° 2010-1192 of 10th October 2010 forbidding the concealment of the face in public.

As of 14th November 2016, 52 minors were charged with criminal conspiracy with a view to committing a terrorist act.

The breakdown is as follows: 37 girls / 138 boys, 76 known to the DPJJ and 96 unknown. The average age is around 16 and a half.

2nd situation: minors reported as being subject to a risk of radicalisation, monitored as part of the protection of children.

The reports are for the most part made by the parents, schools or the monitoring unit of the Préfecture.
As of 1\textsuperscript{st} August 2016, the national monitoring and information mission (MNVI) listed 189 minors as having been the subject of a legal decision as part of the protection of children because of a risk of radicalisation, mainly within the framework of a court-ordered investigation into education (MJIE) or a measure of non-custodial educational assistance (AEMO). As of 1\textsuperscript{st} August 2015, that figure stood at 39.

3\textsuperscript{rd} situation: minors managed by the DPJJ for other reasons and reported because of the presence of “signs of radicalisation”.

As of 1\textsuperscript{st} August 2016, 364 minors already managed by PJJ establishments and services were reported to the judiciary because of objective and worrying elements which could indicate the beginnings of a process of radicalisation. Those minors were the subject of an evaluation and specific close attention.

4\textsuperscript{th} situation: minors monitored as part of the protection of children because of the radicalisation of their parents.

Finally, as part of childhood protection, as of 1\textsuperscript{st} August 2016 the DPJJ had monitored 146 minors because of the radicalisation of their parents, within the framework of a court-ordered measure of educational investigation (MJIE), a measure of non-custodial educational assistance (AEMO) or a placement. As of 1\textsuperscript{st} August 2015, 48 minors were in that situation, more often than not very young children.

Knowledge of the population

The initial analyses show that the recruitment discourse used by the radical Islamic organisations targets mainly juveniles who are vulnerable on the social and family levels: juveniles who have the impression of coming from nowhere, who know little or nothing about their family background, who are looking for something all-powerful or who have no hope of any social success, and also minors who have suffered from severe upsets in their life. Today, the radical discourse succeeds in affecting juveniles of very different backgrounds, social classes or religions, evidencing the extraordinary capacity of such discourse to adapt to the different forms of fragility of such juveniles.

The population concerned is therefore more composite than that usually handled by PJJ establishments and services given the social heterogeneity, the diversity of the offences recorded, the high proportion of girls and the successful integration of certain minors, in particular in school.

As an example, and in comparison with ordinary delinquency, there is a higher percentage of girls managed by the DPJJ. They account for one half of those indicted in civil cases and one half of those charged for criminal conspiracy with a view to preparing a terrorist act, whereas the proportion for all the offences of a terrorist nature is 8 boys out of 10 minors. As of 17\textsuperscript{th} March 2017, in Paris, 20 girls for 43 boys charged with criminal conspiracy with a view to preparing a terrorist act were taken in charge by the DPJJ. That data, which is unusual in relation to the activity of the DPJJ, calls into question the professional practices and modes of management proposed.
Furthermore, the social and family context, dropping out of school and psychological state are additional factors of exposure which make the minors customarily handled by the DPJJ potential targets for recruiters.

The vulnerability of the juveniles managed by the DPJJ is a constant factor, given their quest for a place within a group, their taste for exaltation, their thirst for meaning or their need to justify violence (against others or against themselves).

Radicalised minors or those on the road to radicalisation form a heterogeneous group, which means that the representations hitherto considered on this phenomenon need to be revisited:

- all different social and professional categories are affected;
- all environments, rural and urban, are concerned, the most concerned being places where groups of influence congregate;
- religion is not always the driving force of radicalisation; it can also be political, humanist or even universalist.

Similarly, these management programmes have served to highlight different profiles, all sharing the quest for narcissistic enhancement, a search for meaning and belonging to a group:

- minors fired by violent intentions without any religious connotation. For them, radicalisation is a way of expressing their violence with respect to adults but also to society as a whole;
- minors seeking an identity, considering themselves to be the victims of discrimination, humiliation or stigmatisation because of their social or ethnic origins;
- those caught up in family problems (fascination for and identification with a radicalised member of the family, claim of their origins, a religion not practised within the family, etc.);
- certain minors are also looking for affection (essentially girls);
- a few minors present psychiatric problems (paranoia, suicidal behaviour, etc.).

With teenagers, it is sometimes difficult to distinguish between what comes under radicalisation and what comes under teenage risk-taking, as the difference between the two is occasionally slight.

Moreover, it should be remembered that there is no systematic correlation between facts that can be qualified as a terrorist offence, in particular advocating terrorism, and true radicalisation. That distinction is a real challenge for the DPJJ because it means assessing whether the behaviour or the discourse reflects real radicalisation or simply teenage provocation.

Many anti-Republican, racist or pro-Jihadist comments were made by teenagers following the attacks. They are often related to the fact that the violence, images and comments to which they have access on Internet and the social media have become commonplace. Such juveniles have often seen violence first-hand within their families.
These attitudes need to be systematically taken into account within the framework of the educational relationship and should lead to heightening the awareness of the juvenile through the specific prevention actions currently deployed by the DPJJ.

2. National legislation applicable to radicalised minors

2A. National anti-terrorism legislation

As a preamble, certain important notions must be recalled:

- Terrorist offences are defined by Articles 421-1 et seq. of the Criminal Code.

- Since a law of 6th December 2013 waiving the customary rules of jurisdiction, Paris Regional Court entertains exclusive jurisdiction over terrorist offences irrespective of where the offenders, (minors or adults) come from, with the exception of offences of direct provocation of terrorist acts or publicly advocating such acts.2

- The Paris Court Educational Unit (UEAT), a PJJ service, entertains jurisdiction for the Collection of Socio-Educational Information (RRSE) for all the minors charged by the specialised service. Given the particularly sensitive nature of the charges, the UEAT systematically proposes that the judge orders a court-ordered investigation into education (MJIE).

- In that respect, the Territorial Non-Custodial Educational Service (STEMO), a judicial juvenile protection service with a centre in Paris, may be called upon to take judicial measures of educational investigation for juvenile Parisians on parole or for juveniles from all over France and imprisoned in the Paris region.

- To facilitate examination of the cases, these minors are mainly dealt with in the Paris region, with a connection to where they come from.

**Evolution of the defining texts**

The long list of attacks that bloodied France in the 1970s and 1980s highlighted the inadequacy of the legislative arsenal available in response to such challenges. Adoption of the law of 9th September 1986 on the fight against terrorism was the first step towards the creation of a new, more balanced legal corpus. In the course of the 1990s, when the country was again hit hard, further additions were made to the legislative measures. The year 2004 was an essential step in the reinforcement of the anti-terrorism legislation with the adoption of the law of 8th March, called the Perben II law, designed to adapt justice to the changes in crime.

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2 Article 706-16, 706-17 et 706-22-1 of the Code of Criminal Procedure (CCP).
The violent attacks perpetrated in France by Jihadist terrorist organisations since 2012 have resulted in numerous legislative modifications. The “Merah” affair was a milestone given the number of civil parties involved, the person’s connection with ordinary delinquency and the extensive search for accomplices. The year 2015 was a watershed year quantitatively with gigantic challenges arising from the number of victims but also with the number of seals placed and experts called upon. A new phase began in 2016 with terrorists who had not gone overseas but who had become radicalised through the social media.

Anti-terrorist legislation, by becoming better structured and more precise over the years, continues to bring even more to this new legal category. Starting in 1981, with the increased threat, legislation began to adapt to the necessities of the fight against terrorism. That was the purpose of the law of 21st July 1982 which created the special assize courts following the threats made against jurors by the accomplices of the terrorist Carlos. That decision was not, however, accompanied by the creation of a specific terrorist charge. There were probably still hopes at the time that it would be possible to reduce the problem by other means. That second stage took five years to come into being. As from 1986, all the legislative initiatives converged on the determination to prevent action, including preparatory acts, by organising law enforcement and by acting within the framework of the rule of law. No-one questions today that logic of prevention through the upstream dismantling of terrorist cells before the perpetration or attempted perpetration of attacks.

The toughening of criminal policy with respect to terrorist-related offences has had consequences on the judicial response and, inevitably, on the judicial measures taken and the educational management of minors resulting from such measures.

With 14 laws adopted between 1986 and the end of 2014, the criminal charges for terrorist acts have expanded over the years with ever increasing detailed attention to the rules of criminal procedures: investigation techniques, rules governing the examination and judgement of each case.

The latest texts

For a better understanding of this study, it appeared pertinent to detail certain laws here.

Law of 13th November 2014 reinforcing the measures for the fight against terrorism

To fight against the ever-increasing development of terrorist propaganda and to improve the efficacy of law enforcement in that area, the law of 13 November 2014 subjected the provocation and advocating of terrorism to the ordinary procedural rules and to certain rules provided for in cases of terrorism. To that end, such offences as appeared in the law of 29th July 1981 on the freedom of the press were incorporated into the Criminal Code.³

Directly provoking terrorist acts or publicly advocating such acts is punished by a 5-year prison sentence and a fine of €75,000. When such acts are committed via Internet, the sentence is increased to 7 years and the fine to €100,000.

³ Article 421-2-5 of the Criminal Code.
To avoid certain nationals becoming radicalised abroad with the risk of being a threat upon their return to France, this text includes an administrative prohibition forbidding them from leaving the country. That ban, for a maximum period of six months and subject to renewal “as long as the conditions exist” can be decided upon by the Minister of the Interior and later challenged in the courts. A government amendment makes it possible to cancel the passport and national identity card of the person concerned immediately upon the pronouncement of the ban.

Another amendment enables the Minister of the Interior to pronounce an administrative ban forbidding any foreign national not usually living in France (including European Union nationals) from entering France when their presence in France could constitute a serious threat for law and order.

The law punishes any “individual undertaking of a terrorist nature”. This thus covers the possibility of a lone wolf preparing a terrorist act.

Law of 28th February 2017 on public safety and security

This law created the offence of habitual consultation of Jihadist sites provided for in the new Article 421-2-5-2 of the Criminal Code and punished by a 2-year prison sentence and a fine of €30,000. The offence is aggravated when the consultation goes hand in hand with the clear sign of espousal of the ideology expressed on the site.

Two types of sites are specified: those “directly provoking the perpetration of terrorist acts”, on the one hand, and those “advocating terrorist acts when, for that purpose, the site includes images or representations showing the perpetration of such acts consisting of deliberate attacks on human life,” on the other hand.

Laws extending the application of the law of 3 April 1995 on the state of emergency and including measures for the reinforcement of the fight against terrorism

Finally, the state of emergency has been in force since 14 November 2015 because of the risk of attacks. It has been extended several times and is currently scheduled to end on 1st November 2017.

In France, the state of emergency is a special situation, a kind of exceptional state enabling the administrative authorities (Minister for the Interior, the Prefect) to take measures restricting certain liberties, such as traffic bans, the handing-in of certain categories of firearms or identity checks and searches. The most severe measures are house arrest, the closure of certain premises, a ban on demonstrations and administrative searches by day and by night. It therefore divests the courts of some of their prerogatives.

For terrorist acts, the maximum periods of temporary detention and imprisonment are increased. Temporary detention can be for two years for minors, three years for adults.

The 20-year prison sentence is increased to 30 years, and the 30-year sentence is increased to a life sentence. For foreigners convicted of a terrorist act, this law created an automatic sentence banishing the person convicted from France (the court may decide not to hand down that sentence upon a specially-founded decision). Furthermore, persons convicted for terrorism cannot benefit from any remissions.

**Law of 3 June 2016 reinforcing the fight against organised crime, terrorism and their financing, and improving the efficacy and guarantees of criminal proceedings**

The law of 3 June 2016 reinforces the means available to the judiciary in the fight against organised crime, terrorism and their financing, while at the same time extending the guarantees in the course of criminal proceedings, especially during the investigation and examination of the case to bring our procedure into full compliance with the constitutional and European requirements.

**2B. Criminal justice for minors**

**The main principles**

The order of 2 February 1956 on juvenile delinquency, the basis of justice for minors in France, establishes the principle of education taking precedence over repression. In practice, that principle gives priority to educational measures. The handing down of a sentence must therefore be exceptional. Minors under the age of 13 cannot be given any prison sentence. For minors aged between 13 and 16, the juvenile court cannot hand down any prison sentence against them greater than one half of the equivalent sentence for a person of age. If the possible sentence is life imprisonment, the court cannot hand down a prison sentence of more than 20 years. That attenuation of the sentence is an excuse on the grounds of minority. It can be set aside in exceptional cases for minors aged over 16, but the judge must then give grounds for his decision not to allow the minor to benefit from the excuse of minority.

In France, the judge can therefore hand down criminal judgements in response to the offence, outside of detention. The educational measures or sanctions are determined on a case by case basis by the children’s judge, by the juvenile court or by the assize court for minors. They must aim at the educational and moral rehabilitation of the minor.

**Presentation of the criminal responses**

**Educational measures, which apply to all minors but which are the only criminal response possible for minors aged under 10**

Their purpose is to protect, assist, monitor and educate the minor. They can be reviewed at any time:
• a reprimand is a warning of the minor issued by the children’s judge,
• the minor is handed over to his/her parents, guardian or a person worthy of confidence,
• a solemn warning,
• probation, one of the measures which implies supervision by a PJJ educational service,
• placement,
• court protection,
• measures of assistance or compensation,
• daytime activity measures,
• exemption from any measure,
• postponement of the educational measure

Educational sanctions which apply to minors aged between 10 and 18

• confiscation,
• prohibition to appear,
• prohibition to meet the victim,
• prohibition to meet with the co-perpetrators or accomplices,
• measure of assistance or compensation,
• course of civic training,
• placement,
• performance of school work,
• a solemn warning

Sentences which apply to minors as from the age of 13

• exemption from the sentence,
• postponement of the sentence, simple or with probation,
• compensation-sanction,
• a fine, limited to one half of the maximum amount applicable to adults (with an exception for minors over the age of 16) not exceeding €7,500,
• community work for minors aged between 16 and 18. It must be adapted to their age, have an educational content and help towards their social integration,
• socio-judicial supervision,
• course in citizenship,
• prison sentence with simple suspension, with suspension and the obligation to undertake community work or suspension with probation.

Imprisonment is therefore an exceptional criminal response. When the juvenile is a minor at the time of any such imprisonment, he or she must be sent to a prison listed as one of those approved for the intake of minors: a specialised prison for minors (EPM) or quarters for minors (QM) in a jail or penitentiary. They benefit from a detention regime which must give pride of place to training.

Whilst radicalised minors or minors on the road to radicalisation must be the subject of specific vigilance, the choice has been made to reinforce their management on the basis of the programmes already in existence (Cf. Part 3 – the radicalisation of minors in detention or in other closed establishments, developed as from page 18).
3. Management of radicalised minors

3A. Principles for the management by the DPJJ of radicalised minors or in danger of radicalisation: a customised, multi-disciplinary and multi-institutional approach.

The heterogeneous profiles of the juveniles entrusted to the DPJJ following judicial decisions necessarily calls for a diversification of responses. In accordance with the principles set out in the guidance memorandum of 30 September 2014 on all the forms of management of minors by the DPJJ, and the memorandum of 10 February 2017 on the educational management of radicalised minors or in danger of radicalisation, the DPJJ give pride of place to responses which take into account the individual needs of each minor as detected following an in-depth multi-disciplinary evaluation. The DPJJ have chosen not to specialise their professionals and not to group the management of such minors within dedicated programmes. That open principle applies to all kinds of placement. For each minor in danger of radicalisation, a customised form of management is proposed reinforced by a multi-disciplinary approach.

The DPJJ undertake different forms of action:

• directly aimed at juveniles, on the basis of thorough evaluations designed to define multi-disciplinary strategies depending on whether the minor is sensitive to the religious discourse, is on the way to radicalisation, is already radicalised or just back from the war zone, but also depending on the position of the minor’s environment and in particular the family environment with respect to radicalisation process;
• through the training of professionals by providing them with the keys for understanding, thus facilitating the establishment of the educational relationship with the teenager with whom a frontal refutation would be counter-productive, and with knowledge enabling them to propose suitable actions.

In all cases, the individualisation of the management of the teenager through the evaluation of his or her situation and the implementation of an educational project makes it possible to focus the actions on the teenager’s own problems and needs as detected. Irrespective of the judicial nature of the measure, the objective is first and foremost to protect the teenager from himself or herself but also from the influence exerted by the Jihadist media in their attempt to convince the minors to go off and pursue the Jihad in a war zone or in France (violent actions).

That is why radicalised minors or minors on the way to radicalisation must be the subject of specific vigilance, as their training is given over to pursuing more precise objectives (breaking away from the mental ascendancy exerted, transferring the need for commitment to constructive actions, avoiding withdrawal, preventing temptations to run off and providing support for those coming back, etc.). The choice has therefore been made to reinforce management in non-custodial forms, in judicial placement or in detention, while at the same time implementing the existing management programmes and calling upon local
partnerships to guarantee the multi-disciplinary nature of the management. Whatever the framework, the actions aim at awakening the critical awareness of the juvenile to provide him or her with the possibility of working his or her own way out of radicalisation.

Currently, minors prosecuted on the charge of criminal conspiracy with a view to preparing a terrorist act are almost systematically imprisoned. Some are sent to closed educational centres (CEF). At the start of each management programme, the minors are also supervised within the framework of a court ordered investigation into education which enables a multi-disciplinary approach of the situation by combining the opinions of the professionals for a better understanding of the minor.

These principles are designed to be applied, irrespective of the type of management, including cases of detention or of placement in a CEF.

3B. Educational management in detention

As far as detention is concerned, the prison administration (AP) and the PJJ educational services pursue a joint mission to provide support for the minors in detention by organising the customisation of their stay. The places of detention for minors (quarters for minors, specialised prisons for minors) are run by members of the multi-disciplinary group made up of PJJ professionals, professionals from the prison administration, the national education system (EN) and from the prison health unit.

The heterogeneity of the problems calls for a multi-disciplinary and multi-institutional approach with a range of views covering vast disciplinary areas. The weekly meeting of the multi-disciplinary team which brings together representatives from the AP, DPJJ, EN and the health unit is the essential body of concertation. It should be noted that the PJJ non-custodial service, the secularity and citizenship representative or any other person likely to bring elements related to the situation of a minor can be invited to take part in the meeting.

First and foremost, it is incumbent upon the DPJJ in detention to ensure the appointment of a non-custodial service by requesting a MJIE or prejudicial probation (LSP) from the examining judge in order to establish the non-custodial “foundation” as from the beginning of management in detention. As provided for in the circular of criminal and educational policy of 13 December 2016, the action of the DPJJ is marked by the attribution of a non-custodial service for all cases of educational management.

Management of juvenile inmates must be undertaken within a framework of intervention which takes due account of the difficulties encountered by the population of juvenile inmates as a whole and the diversity of the problems, in particular those of girls who represent a considerable percentage of the minors involved in such cases. Feedback shows that the majority of male juveniles adopt a passive form of behaviour, in accordance with the management criteria of the prison administration. In the educational relationship, however, active mechanisms can be seen (proselytism, relationships with
women, etc.). The few girls demonstrate their radicalisation violently and so far prove to be greater proselytes.

At the end of the intake period, it is important for the DPJJ to establish with the prison administration the specific modes of management. By application of the circular DAP/DPJJ of 24 May 2013 on the detention of minors, implementation of a so-called reinforced management appears to be particularly indicated for these minors. Reinforcement consists of a greater presence of PJJ professionals in relation with the minors concerned, in particular in terms of individual interviews and socio-educational activities.

This concertation phase between the AP and the DPJJ is designed to enable the evaluation of the minor’s capacity to live within the community of the detained minors. The mode of reinforced management makes it possible to adapt, whenever necessary, the conditions in which the minor benefits from the training, socio-educational and sports activities and interviews with the educational service or with the psychologists.

For minors in temporary detention, the DPJJ can offer alternatives to imprisonment, such as probation or house arrest with electronic supervision with the obligation of observing the conditions of placement in order to provide substantial guarantees of representation.

These provisions require close liaison between the courts, the educational service in detention and the STEMO which implements an open custody measure (MJIE or LSP).

When management concerns minors sentenced to prison, a project for carrying out the sentence must be undertaken. The time constraints for educational action and the procedural framework for carrying out the sentence (the time spent in temporary detention, remission, any additional remission) require the educational services to undertake the task of looking to the time of release in order to plan in advance and therefore secure the suitable conditions for that release.

Given the specificity of this population, it is necessary to recall that administrative solitary confinement of a minor is forbidden by application of Article 726-1 of the Criminal Procedure Code. Furthermore, no specific regime of judicial solitary confinement is provided for in the decree of 23 December 2010 on the application of prison law. In the absence of such a regime, that measure is therefore impossible.

Management of this population requires sharing information between the PJJ professionals when the minor comes into detention and continuous cooperation between the services (permanent educational office of the court, non-custodial, accommodation and detention), in particular when the minor becomes of age in detention.

In the latter case, the joint DAP/DPJJ memorandum of 13 January 2017 on the protocols of cooperation for prevention and the management of minors and juveniles of age in a situation of radicalisation defines the modes of organisation between the different services. They cover the forwarding of information when the minor becomes of age, the local modes of cooperation between the DPJJ and the prison administration services and should be further developed.
4. The role of the families

Work on the family dynamic, as an essential part of the educational action undertaken by PJJ professionals, should not be diminished by the problems of radicalisation. Acceptance by the parents and the family of a judicial measure is a vital component in the success of any management, but takes on an even more specific connotation when it comes to radicalised minors. The various studies on this issue clearly identify the family as the “last rampart” which gives way before the departure for Syria, and as one of the main psychoactive levers for breaking free from radical commitment. Re-establishing family ties, calling up memories (the technique of Proust’s madeleine used by the Centre for the Prevention of Islam-related sectarian deviations, the CPISD) are often the best way of preventing juveniles from leaving. The re-establishment and maintaining of family ties therefore constitute essential pillars in the fight against the radicalisation of minors.

It should be noted that the role and place of the family in the radicalisation process vary from one situation to another.

In the majority of cases, radicalisation occurs outside of the family environment. The family can in such cases prove to be a factor of protection (having resources and maintaining a close and positive relationship with the minor) or can feel helpless, not knowing how to react (ranging from over-protection to rejection of the minor). It should be stressed that some families fail to see the danger or refuse to report their child because of a feeling of guilt, of distrust of the institutions or fear of reprisals.

In certain situations, radicalisation affects the entire family unit which then becomes a factor of risk and danger for the minor. Educational action comes up against a tight-sealed, intractable family unit, making the intervention of professionals a complex, or even impossible task.

The initial feedback on the management of radicalised minors or in danger of radicalisation shows various useful avenues for working with the families. They must be explored starting from the minor, his or her personal experience and the family:

- the fragility of family ties, the desire/need of the minor to revolt violently against his or her parents;

- the absence of transmission by the parents of elements concerning their original culture leading the minor to (re)seek landmarks lost as a result of migration (victimisation of the first generation, a feeling of humiliation and abuse, engendering a thirst for revenge);

- fractures in the family history – involuntary or painful migration, mourning, etc.

When it is impossible to keep the minor in the family (because of procedural necessities, or because the neighbourhood or family is too far away), the minor may be the subject of a civil or criminal placement in a centre. That provides the opportunity to increase the
supervision of the minor and to protect him or her from a potentially harmful influence or ascendancy exerted by his or her circle and environment (the family, friends, neighbourhood relationships, or via the social media). It also enables observation of the minor’s behaviour and detection of weak or strong signals of radicalisation.

**Examples of some of the actions undertaken by the services and centres of the DPJJ (not specific to detention)**

Intervention with the families can be twofold. It may consist in providing support to the family within the framework of a judicial decision (work around the family problem, referral to institutional or social partners), or in undertaking actions of prevention and awareness raising of families of minors managed by a service or a centre.

There is one overriding principle – that of individualisation. The diversity of the situations requires diverse proposals for further guidance and the kinds of management.

The educational tools used:

- family therapy: work on the family’s history, separations, traumatic events and deaths experienced, but also on the transmission of the family’s history and cultural heritage which is sometimes lacking;
- talk groups: they provide a setting for exchange where parents can express their fears related to a possible radicalisation of their child, discuss parental reactions and the attitudes to adopt. They also enable parents to talk of their guilt and to get rid of their feeling of solitude and shame;
- meetings for information and awareness raising on various topics: the danger of the Web and social media, freedom of expression, freedom of conscience and secularity in French society;
- support provided by institutional or social partners.

5. Preventive actions

The DPJJ, in their concern to support and reinforce the legitimacy of the professionals in their interventions, have developed various actions designed to support the practices which often generate apprehension or even anxiety when it comes to dealing with minors concerned by the phenomena of radicalisation. The challenge is to take into account the emotional overload resulting from such management in designing practices for the professional and in their conceptualisation, based on training programmes, partnership and suitable in-house organisations.

**Creation of the MNVI and of the secularity and citizenship representatives (RLC)**

In the weeks following the attacks of January 2015, as part of the government’s plan for the fight against violent radicalisation and terrorist organisations of April 2014, the DPJJ created the National Monitoring and Information Mission (MNVI).
Under the aegis of the DPJJ, its mission is to pursue a policy of citizenship by reasserting the principles and values of the Republic, in particular secularity and the fight against all forms of racism and discrimination. It collates and generalises innovative actions in the areas of citizenship and the fight against radicalisation.

The MNVI has a role to play in coordinating and providing information on prevention and the fight against radicalisation to support and enrich the practices of the professionals involved.

Its scope is threefold:

- fighting radicalisation;
- undertaking educational preventive action projects on secularity and citizenship;
- heightening the awareness of professionals through the organisation of theme days, colloquia and seminars.

Its main tasks are:

- to ensure coordination of the actors involved and the support given to the professionals working to prevent the risks of radicalisation within the framework of the educational mission;
- to pursue a policy of citizenship, reasserting the principles and values of the republic, in particular secularity, the fight against all forms of racism, the outward display of intolerance and of discrimination through the organisation of preventive and educational actions around secularity and citizenship;
- to correlate its action with the public policies implemented locally to prevent radicalisation.

**Organisation**

The MNVI is made up of a network of 70 secularity and citizenship representatives (RLC) in charge of pursuing the three main fields of intervention of the MNVI in their area.

The PJJ secularity and citizenship representatives implement actions to heighten the awareness of professionals in the form of conferences, seminars, colloquia, study days or work groups. Their actions are focused in particular on conspiracy theories, mental ascendancy, indicators of conversion, refutation and the direct management of radicalised juveniles. Actions aimed at education in the media also come within the scope of prevention of radicalisation as they make it possible to heighten the awareness of the professionals concerned with respect to data tools for the media-driven and digital environment of juveniles to be taken into account as a real component of the educational work undertaken.

- They support the organisation of local actions where they intervene in particular by calling upon qualified people or associations. At times, responses need to be sought outside of an institutional framework because radicalised minors are especially mistrustful of the intervention and discourse of institutions. It is essential to call upon the resources of associations or private initiatives such as the associations created
by families directly confronted with the phenomenon of radicalisation or the testimony of people who have been victims of radicalised persons or who have themselves becomes radicalised at some point of time in their life.

- They support the professionals in the handling of individual situations of radicalised minors.
- They help the centres by putting together educational tools in the areas of secularity and citizenship.
- They are behind a wide range of training programmes.

The RLC come equally from internal recruitment within the DPJJ (directors, heads of educational services, psychologists, technical teachers) and from outside, namely people from the private sector recruited under contract (covering a very wide range of profiles, with sociologists, consultants, instructors, lawyers, members of associations, etc.) or from civil servants recruited by transfer or secondment representing different services (technical advisors in social services (CTSS), attachés, heads of department, technical teachers) from different administrations (national education, the Regional Directorate for companies, competition, consumers, labour and employment (DIREECTE), county councils, regional communities, the General Directorate for Social Cohesion (DGCS), etc).

The diversity of the forms of recruitment, of personal experience and of backgrounds go to make up the wealth and added value of this network which implies collegial work as close as possible to the expectations found in the field.

The assignments of the secularity and citizenship representatives are extremely varied and also depend on the needs expressed and found in each area (engagement letter of the regional directors and local directors).

The network makes it possible to provide support to the professionals and to develop partnerships and specific actions.

The educational teams pursue specific activities in the fight against radicalisation based in particular on education focused on developing a critical capacity, deciphering propaganda discourse and images and promoting citizenship.

**Developing a critical capacity**

Faced with a juvenile who is already radicalised, developing an explicit and direct refutation can prove to be counter-productive as it can be perceived as a reproduction of a power relationship which stimulates the hard-done-by syndrome of certain teenagers and reinforces the way in which they see the world. Moreover, it is difficult for professionals to enter into a refutation themselves or at the very least to deconstruct a discourse upheld by radical movements. That is why pride of place is given to actions aimed at stimulating thought, a critical capacity, the desire to think for oneself and to confronting one’s own ideas. They seek to encourage awareness of the complexity of the real world and to equip the teenagers with new reflexes in their access to information for them to create their own refutation. Such actions thus aim at emphasising the importance of the various sources, the plural nature of the media, enabling teenagers to acquire critical thinking.
**Educating teenagers in the media**

As extremely powerful tools of information and communication, Internet and the social media are central to the phenomenon of radicalisation.

Extremist groups use Internet and the social media as lines of communication to broadcast propaganda images and videos. Radical Islam uses these tools to communicate a certain vision of religion, of society and of an exceptional destiny. Teenagers, as the prime users of Internet and the social media, are easy prey for the proponents of conspiracy theories. They do not always have the instinct to look at the source or to verify the information fed to them. They may have difficulty in comparing the arguments, or standing back and judging for themselves. They can be fascinated by the proposals offered them from another world. Moreover, social media is increasingly used today by terrorist organisations for the purpose of recruitment as they enable the elimination of all geographic and social barriers between the recruiters and the recruited. Forums and mobile communication applications such as Whatsapp and Telegram are chat forums where it is easy to communicate with someone or to create a discussion group where people can mutually encourage and convince each other.

These factors constitute new challenges for the DPJJ. More than ever before, it is essential to educate teenagers in the area of the media and news, on the one hand, and on the other hand to train PJJ professionals in these means of communication for the media-driven and digital environment of teenagers to be taken into account as a full-blooded component of the educational work undertaken.

**Team support structures**

Educational action involves working on the relationship in situations where minors commit transgressive and occasionally destabilising acts. Undertaking education can prove to be delicate with the minor and the family when faced with different forms of violence in the relationship. The distinction between professional and personal values can at times be hazy or, on the contrary, sharpen a conflict. It is essential to measure the impact to ensure quality management. The work of education requires specific organisation from the institution in support of the educational teams for them to succeed in their mission.

The DPJJ, in the constant drive to improve the quality of the management of minors entrusted to them, are committed to implementing support procedures for its teams and professionals focused on their mode of involvement, the enforcement of the measures and on taking due account of the minors and their families. That work is part and parcel of the educational field as a working tool of management.

Alongside the specificity of the minors involved, the factors impacting the actual working practice of the professionals are manifold: the institutional dimension with its missions and values, the team dynamic and the challenges linked to a small group and finally the professional identity of the educator, which go to make up the singular nature of management.
Various procedures are available on those different levels each designed to meet precise objectives. Taking on board the values of the institution, harmonising practices, pooling knowledge and experience, reinforcing the team spirit are all objectives that can be met by such facilities. At the same time, in unusual circumstances, temporary dispositions can be contemplated, in particular to overcome team conflicts or support a change so as not to allow a crisis situation to last.

Management of radicalised minors or in danger of violent radicalisation can have an impact on the professional, the team and the structure. Awareness of those different components makes it possible to reinforce the position of the professionals and of the team in their management task.

In that respect, several actions designed to support the professionals in the form of task forces are being implemented within the facilities of the DPJJ.

In particular, within the Department for the Paris Region and Overseas Territories, there is a Regional Radicalisation Task Force (GAR).

**The radicalisation task force (GAR)**

This is made up of:

- Department RLC (leaders)
- 2 educators
- Attendant clinical psychologist (20%)
- Support of the psychiatrist within the Department

**Missions:** The main objective of the GAR is the operational support and backing of the relevant teams for the implementation of a working environment enabling the guarantee of the intervention and carrying out of their assignments. This task force handles the management of radicalised minors, minors on the road to radicalisation, minors whose parents are radicalised and minors returning from the Iraq-Syria zone. The assignment of the task force is:

**Resources made available to the professionals:**

- take part in groups sharing their experience led by the secularity and citizenship representatives of the local and regional departments;
- lead groups sharing their experience at the levels of the Protectorate and its services;
- share working tools and media, with the drafting of written support material, situation analyses, proposal of educational and clinical fliers, etc.
- capitalise on good practices;
- guide the professional teams to the management facilities (Association Service and Authorised Association Service of the DPJJ and others) and resource partners;
- support to the teams working in a situation of non-custodial or placement:
• briefing and debriefing over a given period of time (start and end of management);
• situation analysis, with support in preparing the type of management;
• providing the teams with material related to the background of the minor under management (psychological snapshot at a given moment);
• to assist the professionals in standing back to assess the situations and in working on professional attitudes (by working on the question of the emotional workload and eventually the position of the professional when faced with the risk of danger, on the question of the right balance between proximity and distance with the teenager, the question of neutrality, the question of religion, foreseeing the phenomenon of stigmatisation, boosting the team spirit as and when necessary (pairing, supervision, etc.), providing the necessary nuances of the representations related to radicalised minor and to violent radicalisation in general and ensuring distancing from such representations with the deconstruction of certain prejudices).

**Resources in the management of teenagers:**

Supporting the interventions with teenagers:

• support provided as necessary to the teenagers managed in a placement centre in cool-off periods (in support of and in contact with the relevant teams) over short period (2 to 3 days);
• for teenagers coming out of detention, providing a “breather” of 4 to 5 days in a facility with 1 educator from the GAR and 1 educator from the facility, possibly taking psychological snapshots at a given point in time. The idea of the photograph is that it is taken one a one-to-one basis and not during management by an educational facility, unless explicitly requested by that facility.

Proposing dedicated time periods:

• implementation of cooling-off/getaway stays when part of unit’s educational project;
• coordination of 2 to 3 cooling-off days in conjunction with the placement facility
• participation in the supervision of cooling-off stays;
• possible coordination of longer stays (via the mountain, partnerships to be developed around that theme, etc.);
• participating in the implementation of a “breather” as part of the management of a minor between detention and accommodated management. When part of a unit’s educational project, the implementation of this breather can be contemplated only in conjunction with the placement centre taking in the minor concerned;
• depending on the intake facilities, helping to model made-to-measure management to facilitate matters for the teenagers and for their integration in a community.

Operational aspects of the task forces: 1st September 2017.
Training and awareness-raising actions undertaken by the National School for Judicial Juvenile Protection (NSPJJ)

For several years now, the NSPJJ has been offering training modules on themes such as intercultural aspects, secularity, citizenship, ascendancy and the processes of vulnerability, image education, intervention at the level of families, evaluation, management of violent situations, etc.

Since 2015, it has also been pursuing a training programme dedicated to the issue of radicalisation, called “radicalisation prevention”. Further in-depth modules are planned for 2017. This is an action plan designed to enable the training over a 3-year period of all the professionals involved in the educational mission of the DPJJ, the objective being to grasp the complexity of the phenomenon and to support the action undertaken with teenagers and families.

Objectives of the programme:

Module 1:
philosophical debate

• encouraging the professionals to think about the key concepts related to the principle of secularity as from their own representation thereof;
• philosophical inputs;
• definition of living together, the social project;
• question of ethics.

Module 2:
Review of public and private law on individual liberties

• familiarity with the national and European legal framework in relation to the freedom of conscience and individual liberties;
• greater awareness of the interplay between individual and public liberties;
• familiarity with the general framework for the application of the principles of secularity and neutrality and their interplay with the freedom of conscience of users in government establishments and services.

Module 3:
Clinical aspect of mental ascendancy

• positioning of the role and function of the Ministerial Mission for Vigilance and the Fight Against Sectarian Deviations (MIVILUDES)5;
• drawing up the inventory of radicalisation phenomena;

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5 The MIVILUDES is an agency set up in 2002 to replace the Ministerial Mission for the Fight Against Sects (MILS). Its mission is to observe and analyse the phenomenon of sectarian deviations, to inform the general public about the dangers they represent and to coordinate the preventive and punitive actions of the police. Since 2014, its scope has been extended to include the issue of radicalisation.
• describing the processes of mental ascendancy and radicalisation;
• enabling professionals to identify the signs of radicalisation to adapt the modes of support provided for teenagers and families.

Module 4:
Modes of communication of teenagers

• identifying the modes and means of communication of teenagers;
• increasing the awareness of professionals to the deviations, related to the use of social media.

Module 5:
Anthropological and historical landmarks of Islam

• providing some key anthropological and historic landmarks with respect to the Arab Muslim world;
• distinguishing what, in the Arab Muslim world, stems from the religious, cultural and traditional content;
• increasing awareness of the need for a pluralistic approach to the Arab Muslim world.

Module 6:
Radicalisation and Jihadist networks

• setting the context and understanding how radical discourse and behaviour develop and take root;
• presenting the national provisions for fighting violent radicalisation and Jihadist networks;
• drawing up the list of French citizens involved in Jihadist networks;
• explaining the strategies deployed by the Jihadist networks;
• identifying the availability and local partners of the DPJJ in the prevention of radicalisation.

Module 7:
Mediations and media in education

• understanding the modes of communication and the media culture of teenagers;
• highlighting the educational media enabling professionals to undertake preventive actions in that area.
To date, 7,877 professionals have been trained under this plan. The three-day training programme has enabled PJJ professionals and professionals from partner institutions to benefit from a joint base of knowledge and experience that can be called upon in the field.

Furthermore, the ENPJJ has undertaken work on the publication of theme documents in support of the various professional practices. The theme document on mental ascendancy, published in September 2016, is an essential tool for the understanding of the mechanisms involved with certain radicalised minors. Theme documents on educational content, the social mix and social media are being finalised and will also serve to improve understanding of such topics.

**Research projects**

To design tools enabling improvements to be made in the quality of management and to adapt acquired knowledge and experience to the latest developments, the DPJJ drive or participate in numerous research projects related to radicalisation.
A research project on radicalised minors in detention

An action-research project led jointly by the DAP and the DPJJ is scheduled for 2017, covering the "phenomenon of violent radicalisation in minors and young persons of age in detention: identification of the difficulties and needs of the professionals and help in adapting practices".

A qualitative analysis of the situation of radicalised minors entrusted to the DPJJ

To provide better knowledge of the issue and food for thought on the practices of management, the DPJJ director decided to pursue research in conjunction with Paris Ouest Nanterre University. The objective is to produce a qualitative and sociological analysis of the situations of radicalised minors entrusted to the DPJJ – “Commitment, rebellion, religiousness. Understanding radicalisation in the teenagers managed by the DPJJ” – as an addition to the quantitative study already undertaken. This feedback from direct experience is an essential stage to provide an objective and scientific view of these teenagers and how the PJJ establishments and services manage them. The research led by two researcher sociologists (Laurent Bonelli and Fabien Carrié) started in September 2017 and should be completed by the end of 2017.

A research project of psychiatric prevalence

A study project on “Psychiatric prevalence, empathy and suicidal tendencies in radicalised teenagers entrusted to the DPJJ” is planned for the end of 2017. This project is headed by Guillaume Bronsard (a pedopsychiatrist with the County Teenagers Home and the County Medico-Psycho-Educational Centre, Public Health, Marseille). A study of their “empathy” and of their “suicidal tendencies” will be incorporated to improve knowledge of how their psychology works in order to further knowledge of the possible existence of a specific link between mental pathology and radicalisation.

Projects with associations

Numerous initiatives and partnerships with associations have been undertaken to deal with this issue. Although it is impossible to give a complete list, a useful initial example worth mentioning is a particularly innovative project in associations sector financed by the DPJJ.

Specialised and individualised intake facility (DASI)

This project is led by two associations, Thélémythe and Concorde, which have developed additional managerial skills that they have decided to pool in an attempt to respond to the needs of teenagers on the road to radicalisation.
Teenagers aged between 13 and 18 are entrusted by an examining judge or by a children’s judge to this facility which is attached to an educational home called “Les Sorbiers” that is run by the Concorde association. The home benefits from PJJ authorisation.

The DASI provides individualised support for each teenager from professionals working around the clock (in 6-hour shifts) in a 2-room apartment situated in the Paris region capable of housing 5 people. Placement lasts for 6 months and can be renewed once.

This reinforced supervision makes it possible to undertake a fine evaluation of the situation in particular thanks to sharing the different viewpoints of the socio-educational and medico-psychological professionals, the final objective being to enable a suitable orientation (community placement, return to the family with support, etc.)

The facility is in place and has already taken in its first teenagers following the sentence for their placement.

Conclusion

The fundamentals of social intervention contribute to the prevention of the risks and to the protection of the teenagers in particular through the educational dimension. That approach enables those teenagers with the greatest difficulties to benefit from the containing and reassuring support offered by the educational relationship.

In that respect, the educational management of radicalised minors or in danger of radicalisation is based on the joint foundation of skills that the multidisciplinary teams of the DPJJ deploy for the benefit of each teenager. The educational facilities, procedures and tools developed by the DPJJ enable a better understanding of the vast range of individual situations and provide each teenager under management with a customised response. That is why the DPJJ, when it comes to the prevention of radicalisation or the management of radicalised minors or on the road to violent radicalisation, call upon the tools and know-how developed and deployed every day by the professionals in all the establishments and services to manage all those under court protection.

Radicalised minors or those on the road to radicalisation must be the subject of reinforced educational vigilance to prevent them from closing in on themselves, to help them break free from any mental ascendancy, to prevent them from trying to leave for the war zones and to provide them with support when they come back.

That increased vigilance must be deployed from the implementation of the court ordered investigation and cover the educational stage (MJIE), and all stages along that route. The MJIE is streamlined to collect information on the personality of the minor, his or her family and social situation and to highlight, within that specific context, the family alliances that can generate a dangerous ideological ascendancy but also those that can support the minor in a change of viewpoint.
Faced with the globalisation of the threat, France is fully aware of the European challenges and of the necessity of cooperating with other countries in the fight against terrorism. Cooperation has therefore today become everyday practice, as shown by the creation of Eurojust, a European arrest warrant, a joint investigation team, meetings for coordination in matters of terrorism, the anti-terrorist unit of Europol, etc. Top quality cooperation exists today with countries such as Spain, Belgium, Morocco and Germany.

The ‘Strengthening Juvenile Justice Systems in the counter-terrorism context’ project is part and parcel of that logic. It will make it possible to take further the sharing of knowledge and prospects of the judicial systems in Europe, to evaluate the respective responses of the countries and to provide the PJJ professionals with further food for thought.

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GERMANY

Ministry of Justice of Bremen

Eduard Matt
Ivo Lisitzki
Rhianon Purser-Williams
Torben Adams
1. Counter-terrorism approach and policies (under 18) in the country

Questions of legislation and prevention are discussed in different ways for various types of extremism. As such there are different strands of arguments and different discourses which we are going to set out.

As the German constitution establishes, a main task of the government is to safeguard the values stated within the constitution against extremism and the risk of anti-constitutional activities in general. The ‘democratic constitutional structure’ (‘freiheitlich-demokratische Grundordnung’ – ‘free democratic order’) has to be protected. German authorities therefore have a pronounced awareness regarding different types of extremism. Germany, in this sense is seen as an open and combative democracy (‘streitbare Demokratie’).

Violent extremism and radicalisation in Germany has traditionally been seen as a problem of merely right-wing and left-wing extremism. Until recently, Islamist extremism was widely regarded as a ‘foreign issue’ and not a threat to public safety in Germany. Recent years however have seen an increase in radicalisation and the propensity to violence amongst the wide range of Islamists. Despite that, Germany did not see its first case of a successful violent terrorist attack with an Islamist background until 2011. However, with a growing jihadist movement\textsuperscript{1} and several successful jihadist attacks in 2016, a shift in promoting and financing programmes combatting Islamist extremism/Jihadism can be seen at the national level.\textsuperscript{2}

Responsibilities within the prison, probation and prevention systems are divided. Whilst the overall prison and probation system lies in the hands of the 16 federal states, programs with the aim of preventing extremism are often funded on state level through federal programs. Due to the fact that competences in Germany are spread locally amongst the federal states (Bundesländer) there is no joint strategy countering terrorism. However, an exchange of strategies and information amongst the states has been achieved through the introduction of GTAZ (Gemeinsames Terrorabwehrzentrum – joint counter-terrorism centre) which was built in 2004 and is meant to be a national communication platform, bringing together 40 national interior authorities\textsuperscript{3}. These are institutions of security (secret service, protection of constitution, police and others – at the governmental level and in each of the 16 federal states /work on the security level ). The need for cooperation has been formulated especially in regard to the growing threat of Islamist terrorism.\textsuperscript{4}

\textsuperscript{1} According to the Office for the Protection of the Constitution the Salafi/Jihadi movement has been steadily growing from 3,500 individuals involved in Salafi circles in 2011 to 10,300 in 2017 https://www.verfassungsschutz.de/de/arbeitsfelder/af-islamismus-und-islamistischer-terrorismus/was-ist-islamismus/salafistische-bestrebungen.


\textsuperscript{3} The GTAZ aims to provide a platform for interior authorities to share and discuss specific details of current cases of terrorism threatening the public safety.

\textsuperscript{4} There is a judicial discussion on the possibilities and rights of data exchange between the different institutions.
Additionally, various approaches to prevention are set in the broad field of extremism. Practical work is mostly done by NGOs. Thus, a broad field of civil society actors are also working within the field of prevention of radicalisation, which, mostly through government financing, has been flourishing since 1992 (with a focus on right wing extremism at that time). Each federal state has been equipped with a ‘democracy centre’, coordinating projects, concepts and strategies countering violent ideologies as well as promoting civic education. However, a nationwide strategy to counter extremism, namely the National Action Plan\(^5\), has seen an increase in funds in order to improve existing network strategies amongst departments concerned, as a lack of cross-linking has been widely criticised. The plan furthermore aims to develop existing concepts on how to counter radicalisation and extremism. Added to that, the National Action Plan aims to financially support more than 700 non-governmental actors working in the field. State programmes tackling radicalisation have traditionally given large parts of practical work to non-state actors, as radicals tend to see state institutions as an enemy they would not want to work with. However, the National Action Plan is more a funding strategy, rather than one of political action or strategy or a counterterrorism approach.

A large part of federal funding regarding programs aiming to prevent extremism is distributed through the federal program of “Live Democracy!” conducted by the Ministry of Family Affairs, Senior Citizens, Women and Youth. The program promotes projects on municipal, federal state (Democracy Centres) and federal levels. Funds are given for so-called Advice Centres (‘Extremism Information Centre’) in each federal state, these being a central contact point for persons suspected of being radicalised, for family members and other persons. They also fund many projects to foster civic education (in schools, youth centre and other places).

The recent segment (2017 – 2019), with a budget of 104.5 million Euros for 2017, is specifically aimed at prevention and deradicalisation by developing educational services for juveniles and young adults as well as staff (school, youth work) and families concerned. In order to achieve this, relevant Federal Ministries as well as Federal State Democracy Centres are in close cooperation with the programme.

Another segment, running from 2017 – 2019, is specifically focussed on the prevention of radicalisation as well as deradicalisation within the justice sector (prison and probation). This way, much-needed training for prison and probation can be included into project contents. In addition, programmes with a focus on ‘exit- and distancing work’ addressing highly ideologised/radical inmates are as well part of the approach.

Even though funds are spread over all of the 16 federal states, some of the states are much better represented within the programme than others, with Berlin and North Rhine Westphalia securing large parts of the funds provided by “Live Democracy!”.

All strategies, policies, measures and programmes focus on radicalised persons in general, without distinguishing between adults and juveniles (or men and women). Hence, the special context of juveniles is mostly not taken into account. In addition, no

particular strategies focusing on juveniles have been formulated. Practically of course, many projects work with juveniles. However, there is nothing like a specific action plan concerning juveniles yet.6

Even though we distinguish between the target groups, there is not (yet) adequate accommodation for the youth situation: with reference to radicalised persons (returnees, terrorist), we talk about deradicalisation – this group is mostly older (adults). With reference to ‘persons at risk’ (in schools and youth centres) we mostly talk about juveniles – and this latter group is the one most measures and projects focus on (mostly civic education, some projects also perform interventions).

There are two main strands in the discussion of counter-terrorism in Germany: on the one side, there is the political and legal discussion and work, focusing on legal definitions, the coming into force of laws on new offences in the penal code and other laws. On the other side there is also an extension of work definitions (and that means also: legal assurance for new possibilities of working (powers of intervention - Eingriffs-Rechte) for the police and for the Offices for the Protection of the Constitution. On this level, there are most restrictive measures (see below: part: administrative level) as well as the possibilities for data gathering and data exchange between the different institutions (question of data protection). And this also means that most legal changes are implemented not at the level of the penal code, but mostly at the level of police law. (Even there, at the level of the police, we find differences in the implementation of laws between the 16 Federal States of Germany.)

Thus, we can follow governmental reactions to violent acts of extremism in Germany, through verified legislative changes to federal and state security and police laws and national intelligence laws (in the Prosecution of the Preparation of Serious Violent Acts Act (the so-called GVVG and subsequent amendment GVVG-ÄndG). In order to act effectively on the ground, the instances focusing on GVVG were widened on the political level. From this point, criminal liability – and with it the possibility of intervention - no longer begins when an offence has occurred, or once an acute risk has been registered. An intervention could begin prior to the act, but grounded in the concept of prevention (in Germany, the police force is tasked with danger preparedness and preparation, but this can be interpreted as both the prevention of an act and the avoidance of prosecution). Keeping national security and protection of the constitution in central focus, operations and activities that have to do with a potential terrorist act are connected. The focus therefore shifts from attempted or completed acts to so-called ‘Preparatory Acts’. The preparation of a serious act of terrorism becomes open to prosecution, with prevention of terrorism given as reasoning.

“Despite legislative developments [the Prosecution of the Preparation of Serious Violent Acts/ GVVG] which establish the public as the so-called watchdogs of public safety, the actual possibilities for intervention from the police, intelligence and legislative procedure

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has broadened. The main objective is to recognise potential terrorists or so-called ‘Gefährder’ or persons posing a possible threat to national security and public safety at the earliest possible opportunity, and to use the legislative tools to hand to ‘withdraw’ these people for the longest legally possible time (commonly using preventive custody provisions in Section 112a of the German Code of Criminal Procedure (StPO)). A prior example of such provisions would be for example the British Terrorism Act of 2006 or the 18 sections of the U.S. Criminal Code, Sections 2339A – 2339D. Fierce scholarly criticism was levelled at the Bill during the preliminary legislative discussions, centring on the potential restrictions to constitutional rights in certain offences. However this was not deemed enough to make amendments to even the draft legislation. Despite controversial debates in plenary sessions of the German Parliament (Bundestag), the final bill was passed in its original form, without any further amendments.”

This marks the beginning of a police discourse – which has since been taken up by both politicians and the general public – about the introduction and use of the term ‘Gefährder’ or “persons posing a threat to national security and public safety (or potential terrorists)”

“A person posing a threat to national security and public safety is someone who – by means of particular acts - has brought himself under suspicion of being a significant risk of committing politically motivated offences which would be specifically punishable under Section 1001 of the German Code of Criminal Procedure (StPO)”.

The concept of persons posing a threat to national security and public safety has been developing since the 1990’s in Germany, alongside modes of criminality which pose a specific threat to security, and with reference to specific, suspicious persons. Under this more abstract concept of a threat, the guilt of an individual no longer depends on the offence they have committed, but on how the police and security services assess the person’s level of risk.

“The term ‘Gefährder’ or person posing a threat to national security and public safety… appears more often in public debate in German with reference to the fight against terrorism, and most often then with the predicate ‘Islamist’, but has not been defined in legislation. A person is likely to be identified by security services as a ‘Gefährder’ on the basis of specific evidence which is seen as indicating attempted terrorism, and thus subject to government intervention”.

There is a direct connection to an appropriate expansion of the legislative rights for police and security service intervention. What follows is a dilation of clear lines of criminal liability, together with a possible constriction of constitutional human rights.

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8 Personnes à risque / potential terrorist.

9 Bundestags-Drucksache 16/3570, p. 6 (translation by the authors).

10 (fn5) Chalkiadaki 2017, p. 111 (translation by the authors).

11 Bavaria: Amendment archive for the Police Law Enforcement Act (Polizeiaufgabengesetz, PAG) with reference to persons posing a threat to national security and public safety: “To date, the handling of so-called ‘Gefährder’ or person posing a threat to national security and public safety has always required a ‘precise threat’ for the police to engage drastic measures such as monitoring or temporary custody. This change to the legislation which has been introduced by the CSU [the Christlich-Soziale Union in Bayern,
On a practical level, data management processes between government agencies must also adapt. Two examples of this might be the facilitation of data acquisition (such as audio monitoring)\(^{12}\), and a demand for overarching, federal police legislation for the individual German states.

**IA. Sociological background, the roots of terrorism in the country, definition of ‘terrorism’, ‘violent extremism’, ‘counter-terrorism’ used in the country**

The phenomenon is rather diverse, there is no typical profile of a radicalised person nor a socio-demographic profile, since they come from all levels of society. Psychopathology is an exception. Most of them are normal and unobtrusive. Most data on radicalised persons is collected by the security authorities, especially in regard to those having left for Syria and/or Iraq\(^ {13} \) (state 30.06.2015; N=784):

They are rather young (the biggest group are those under 30 years), about 10% are minors (N=56).

The proportion of women is about 21%.

Most of them have a migrant background, being the second or third generation of immigrants. Many individuals are born in Germany (61%), whilst the others come from several other regions (Turkey 6%; Syria 5%, Russian Federation 5% and others) 72 persons were students at the time of departure. (About one third of them had the highest German school certificate (Abitur)).

There is a high proportion of religious converts (about 17%).

In two thirds of the cases, the individuals were already known to police, predominately for violent and/or stealing offences, but also for drug offenses. 18% had been engaged in politically-motivated crimes.

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12 There is a demand to allow the Office of the Protection of the Constitution the surveillance of young people starting at age 14 (at the time the limit is 16 years).

Most of them are not very religious at the beginning of the process of radicalisation.

The numbers of a survey focusing on persons going to Syria and/or Iraq do not tally with the public perception of prison as a place of recruitment and of radicalisation for Islamist extremists. The main factors boosting a process of radicalisation are relationships (family, friends, peers). In the survey the following factors for radicalisation are given (multiple answers possible): friends (54%); contacts to (respective) mosques (48%), Internet (44%), so-called Islam seminars (27%), Activities of distributing the Koran (e.g. ‘Lies!’, a controversial, Germany-wide distribution of free Korans) (24%), the family (21%), so-called benefit events (6%), contacts to schools (3%) and contacts in prisons (2%)\(^{14}\). Given these numbers, radicalisation within prisons does not play a major role in this context in Germany.

There is some variation depending on which region of Germany the radicalised individuals

\(^{14}\) BKA et al. 2016, p. 20 (fn. 13)
come from. The group that is resident in bigger cities is ‘better situated’, not marginalised, and tend to go to Syria in groups – often with relatives. Radicalised people coming from some small towns in West Germany are more deprived youth. They often have a criminal background. There are also some small towns in Germany where there are radical Muslim societies: some youths are radicalised via connections to those communities.

Information about the status of people who have immigrated to Syria/Iraq can be found for N=274 persons (reporting date 30/06/2016):

- 37 per cent remain in Syria/Iraq
- 35 per cent remain in Germany (12 per cent of them imprisoned)
- 16 per cent are allegedly dead
- 11 per cent have an unknown status

The reasons for returning to their countries of origin are mainly disillusionment and pressure put on them by relatives and family. According to the BKA, returnees motivated by tactical reasons represent to 8 per cent of the total.

Returnees, with an average age of 29,8 years, are generally of majority age. The proportion of women amongst returnees is significantly low (13 per cent). Minors are not summed up individually. There were N=56 departures for Syria/Iraq (57 per cent German; 2/3 with dual citizenship); the proportion of women is markedly bigger (39 per cent). Additionally, the proportion of converts to Islam is somewhat less (17 per cent). Almost half of all minors who have left for Syria/Iraq in the past have since come back.

**Linda W. (16) from Saxony**

Linda from a small town in Saxony (rural area; East Germany at the border to Poland), became famous through a picture shared on social media, showing her - surrounded by fighters affiliated with the Kurdish YPG - after she was pulled out of a cellar in Mosul and arrested for being a member of the so-called Islamic State. First reports suggested that she was in possession of a sniper rifle when the soldiers found her. However, that has not yet been confirmed with any certainty.

Before her radicalisation Linda was a successful student, receiving high marks in maths, chemistry and physics. It is not entirely clear how exactly she came to be radicalised, but large parts of the process most likely happened online. After her conversion, Linda first started to wear a veil, stopped listening to music and then, within months, faked her parents’ signatures in order to buy a ticket to Istanbul where she presumably was picked up and brought to Syria and later Iraq. There are hints that she fell in love with a Chechen foreign fighter in Iraq over the internet and later migrated in order to get married to him.
Linda now is imprisoned in Iraq, facing the death penalty for being a member in the so-called Islamic state and taking part in clashes with government forces.

She wants to go back to Germany. Here she would face the accusation of being a member of a foreign terrorist group (§129a,b). She would be sentenced to a prison sentence (max. 10 years). Being sentenced as a juvenile, her going to Syria and her marriage could be seen as a juvenile reaction.

Based on age and other practical information, there is a development of the thesis that radicalisation is strongly based within youth culture.\(^{15}\) (Most projects on the primary prevention level work with young people.) The special context of youth, as being in transition to adulthood, being in an insecure phase of life and therefore vulnerable, is taken as an explanation for the occurring processes. There is an ongoing debate as to whether the group of juveniles is much more vulnerable. They tend to have a feeling of not belonging to their culture or nation, whilst often they struggle with problems in school or within their families. And most of all, they do not see that they have a future in this country.

Due to German history, there is a vast record of discussion on extremism. There is a strong history of right-wing extremism, not only in relation to National Socialism, but, since the 90’s, also about some new forms of right-wing extremism. The Red Army Faction (RAF), a left-wing extremist group, is also notable. Consequently, we can trace back counter-extremist discussion and measures over twenty years, particularly for prevention, - called civic education (bpb - Bundeszentrale für politische Bildung www.bpb.de) – with large funds for projects (see above) as well as a political discussion.

On the political level, recent discussion centres on the relationship between Islam and the German ‘Leitkultur’ (‘German cultural environment/identity’), specifically, the question of whether Islam belongs in German culture. The focus here lies more on the political dimension of integration (in the sense of Islam, not in the sense of radicalised persons) and of Islamophobia and group-focused enmity (gruppenbezogene Menschenfeindlichkeit). The problem in Germany is in some sense the existence of different definitions of extremism and radicalisation. One definition focuses on the German Constitution and the task of the state to defend it against extremist efforts; another is a more political definition, focusing on the extremist views of people. The first definition is used in the legal context, the second in public and politics.

For example:

“Extremism is the collective term for different types of political aims turning against norms and rules of democratic constitutional states through claims of absoluteness

legitimising political violence. Extremism therewith supports non-state violence against political systems with the aim of psychologically affecting the population in their behaviour and consequentially impact the political trend within the state in order to spread political Authoritarianism and dichotomous worldviews.

Terrorism stands for forms of politically motivated violence, systematically carried out by non-state actors against a political system with the aim of psychologically affecting the population in their behaviour through negating non-violent and legal means and ignoring any appropriateness, effects and proportionality of their doing.\textsuperscript{16}

Mostly the meaning of the concept of radicalisation makes reference to use in the European context.

In response to German history, the manifestation of countering extremism and anti-constitutional positions has been highly important during the elaboration of the constitution (Grundgesetz) for the newly established Federal Republic of Germany.\textsuperscript{17}

The so-called “free-democratic order/democratic constitutional structure” has been created and defined as a defensive basis, in order to defend the political concept of disputable democracy. At the same time, the separation rule between the Office for the Protection of the Constitution and the Police force was put into power.

Due to these preconditions it is difficult to agree on a unified definition of terms like extremism and radicalisation. In addition, the term itself as well as the public discussion of the term is clearly politically charged. The Offices for the Protection of the Constitution are charged with the task and definition of defending the “free democratic order” against its opponents. A legally distinct definition of extremism does not yet exist. The Office for the Protection of the Constitution mainly refers to the definition by the Federal Constitutional Court, designating extremism as “anti-constitutional aspirations in sharp contrast to democracy”.

Fanaticism, as well as distinct dichotomous worldviews, are additional characteristics of extremism. The Office for the Protection of the Constitution therefore observes all institutions that actively endanger the existing order. The office springs into action when activities aiming to overthrow the “free democratic order” become active. However, the German constitution does not include restrictions on non-constitutional opinions – only legal behaviour is required. While this approach focusses merely on actions, the political approach is primarily based on private attitudes. Different ideologies of any kind are discussed and rejected. The focus clearly lies on political thinking – an attitude that probably should be modified.


1B. The most common forms of terrorism and the profiles of youngsters suspected or accused of terrorism or violent extremism in Germany

In Germany there is a rather low level of terrorist activity. In the last 14 years, there have been 18 cases. In 6 cases there were injured persons and even fatalities. Especially in 2016 there were many attacks (12 of the 18, with one case with 12 dead).

Before 2016 (5 in the Land North Rhine-Westphalia (NRW); one case in Hesse):

1. April 2002: members of ‘Al-Tawhid’ arrested; planned attacks on Berlin and Düsseldorf
2. July 2006: Attempted attacks with suitcases bombs in regional trains; perpetrators arrested
4. March 2011: Attack on US soldiers; two dead and two injured in Frankfort/Hesse
5. April/December 2011: ‘Düsseldorfer Zelle’ arrested; four suspected planning a terrorist attack
6. March 2013: Planned attack on head of ‘Pro-NRW’; four suspects arrested

Taking a look especially on the year 2016:

![Terrorist Attacks in Germany in 2016](image)

Source: Office for the Protection of the Constitution 2017

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Attacks are carried out all around Germany. A nationwide discussion on radicalisation started, looking for reasons and profiles.

Traditionally, there has never been a “typical” profile for radicalised youngsters suspected or accused of terrorism in Germany. Radicalised youths have always had a wide range of social, ethnical and educational backgrounds. Some youths charged with crimes related to terrorism were highly integrated into society, with well-paid jobs and hopes of a bright future, while others have not had any sort of educational or professional qualification. However, the majority of Jihadis having migrated to Syria/Iraq from Germany in order to join the so called Islamic State have a background in delinquency. The IS furthermore provides a highly attractive narrative which, largely linked to popular youth culture, offers criminal youths the chance to turn from losers in society to “heroes of Islam”.

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Safia S., Hannover

Safia was born in Hannover to a German father and her mother, a woman of Moroccan origin. After her parents split, her mother decided to nurture Safia and her brother with a very strict religious upbringing. Safia therefore had been part of Salafist circles for most of her life. She appeared in several Salafist propaganda videos uploaded to social media platforms from seven years of age onwards, as well as being part of mostly puristic and nonviolent Salafist groups affiliated with popular preachers like Pierre Vogel (Abu Hamza) and Sven Lau (Abu Adam). Even though puristic salafist thought clearly opposes the idea of a militant struggle against civilians, lines between violent and puristic Salafism are sometimes blurry.

Safia was affiliated with Jihadism from at least January 2016 onwards, when she boarded a plane to Istanbul with the aim of emigration to Syria/Iraq in order to join Daesh, following her brother who had tried to emigrate on the same route shortly before. However, her mother followed her to Turkey and eventually convinced her to come back home to Germany. Safia until then hadn’t shown any violent tendencies and had been a class spokesperson in school for at least a couple of years. However, some reports suggest that in the past Safia occasionally expressed her feelings of being socially alienated from her (non-Muslim) peers and society as a whole. There are additionally a couple of stories reporting Safia bringing up radical ideas in lectures at high school and stopping participating in school activities shortly before her attempted emigration to the Daesh controlled parts of Syria and Iraq.

Her mobile phone as well as other mobile devices had been searched and saved by authorities upon her return to Germany. However, only German texts were analysed. Text messages as well as other content in Arabic and English were not examined closely at that time.

At the age of 15 she carried out a terrorist attack. She deliberately attracted the attention of two police officers at Hannover Central Station and stabbed one of them a knife in the neck, who fortunately survived. The general prosecutor was convinced that she consciously chosen the object of her attack: policemen wearing bulletproofed vests. He assumed that she planned to kill the officers, take away their weapons and kill other people. He argued that she accepted the prospect of being killed – a martyr’s death. What’s striking about the attack is not only Safia’s young age but also that, within the narrative of the so called Islamic State, female members usually aren’t allowed to carry out attacks by themselves, as they are restricted to supporting, non-violent roles.
Later analysis found, along with scenes of beheadings and texts affiliated with ISIS, a close correspondence with Mohamad Hasan K., another violent extremist offender from Hannover, who was sentenced to two years in prison as a confidant in the crime committed by Safia. She had announced to him that she would carry out an attack in Germany.

It was only after Safia was arrested on the charge of attempted murder, dangerous bodily injury and membership of a foreign terrorist organization, that police and security services discovered that there was a small group of likeminded jihadists operating from Hannover. Next to Safia, other members of that group have been suspected to plan attacks on western targets. The planned football match between Germany and Netherlands in Hannover had to be cancelled after it was discovered that one member of the group allegedly planned to attack the game, as he had full access to the stadium due to his job at a local sports security company.

There was of course the question of Safia being responsible for her actions as there were concerns of her being emotionally exploited. In addition questions about her the precise nature of her radicalisation has to be raised, as she was part of (nonviolent) Salafist circles for most of her life and most likely emotionally dependent from her more radical peers. Her mother as well seems to play a significant role in the teenager’s radicalisation, even though she opposed Safia’s idea of emigrating to Syria/Iraq in order to join Daesh. However the court saw much evidence for Safia being responsible for planning and carrying out an attack on a police officer in the city of Hannover. The violent offence, from the court’s point of view, was aimed to support the global aspirations of the so called Islamic State – Daesh (which therefore is the first violent act committed by Daesh in Germany). Safia had admitted to the crime committed and apologised in a letter sent to the police officer hurt in the attack.

The court sentenced her to six years of imprisonment for attempted murder and support/membership in a foreign terrorist organization ((§§ 129a Abs. 1 i. V. m. § 129b Abs. 1 Satz 1 StGB). However, the heavy punishment of six years imprisonment for a person only 16 years of age sparked off a public controversy. Safia was a bright student at school, highly involved in school activities and outspoken with a potential bright future. Despite her involvement in strict religious circles, Safia had lived the normal life of any European teenager. There are pictures of her on several social media platforms taking smiling selfies in front of the Eifel tower and the painting of Mona Lisa on a school trip to Paris. Her radicalisation happened within a couple of months only and there is the assumption that the development of her brother to a violent radical offender, as well as the shortcomings of local police who had the chance to step in and intervene long before the actual attack, played a significant role in her journey towards violent extremism.
Therefore, radicalisation leading to Jihadism has strong links to popular youth culture. Islamist propaganda uses symbols and aesthetics well known amongst youths. They provide simple explanations to youths in the process of transition to adulthood, insecure and on the lookout for the “meaning of life” with simple explanations. Especially youths with a migrant background often have a feeling of not belonging to any society or cultural background, neither the one of the country they are residing in, nor the one their parents migrated from. Many of them have experienced social exclusion and discrimination that may give them a feeling of not being accepted. Salafi-Jihadi propaganda then provides easy answers. It creates the image of a global religious nation, the “Ummah”, which is not built on nationality, social classes, or ethnical backgrounds, but simply on religious affiliation.

The definition of offences and sentences are based on the (general) Penal Code/Criminal Code. There are –until now- no special regulations for the Juvenile Justice System.\(^{20}\)

### 1C. Description of the global political approach/trend and legislative focus in response to terrorism in the country

See above.

### 1D. General status of extremist criminality concerning juveniles (under 18)

There is no distinction in the discussion of extremism and no differentiation between the legal treatments or in statistics between adults and juvenile, between the common Law and the Juvenile Law in Germany. There as well is no common definition of violent extremism. Until now, there have been no changes in the Juvenile Court Act (JGG – Jugendgerichtsgesetz).

To get an impression of the amount of persons being radicalised or having done extremist offences, we have to look at different statistics and data relating to the topic.

The intelligence service has its own count of the data, showing some differentiation in the counting of politically motivated offences. There is no separate count for Islamist extremist offences, these are included in the category of ‘politically motivated crimes of foreigners’:

\(^{20}\) In Germany there is a strong focus of the concept of education in the Juvenile Court Act. Imprisonment is the ultima ratio. The law focuses on the age group of 14 to 18; if a judge thinks a young person, aged 18-21, does not have the maturity of an adult, it is possible to deal with his or her case in the Youth court (§105 JGG). In the Juvenile Prison the age is between 14 and 24 years old. (The numbers of the age group 14 to 16 are rather low, the average age is about 21 years old.).
<table>
<thead>
<tr>
<th>OFFENCES</th>
<th>RIGHT WING EXTREMISM</th>
<th>LEFT WING EXTREMISM</th>
<th>POLITICALLY MOTIVATED CRIMES OF FOREIGNERS</th>
<th>OTHERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACTS OF VIOLENCE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homicide</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Homicide attempt</td>
<td>8</td>
<td>18</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>Bodily harm</td>
<td>1.177</td>
<td>1.393</td>
<td>1.354</td>
<td>916</td>
</tr>
<tr>
<td>Arson</td>
<td>102</td>
<td>119</td>
<td>106</td>
<td>171</td>
</tr>
<tr>
<td>To bring about explosions</td>
<td>18</td>
<td>11</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td>Civil disorder</td>
<td>44</td>
<td>25</td>
<td>340</td>
<td>273</td>
</tr>
<tr>
<td>Dangerous interventions into traffic systems</td>
<td>10</td>
<td>13</td>
<td>54</td>
<td>56</td>
</tr>
<tr>
<td>False imprisonment</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Robbery</td>
<td>23</td>
<td>17</td>
<td>32</td>
<td>32</td>
</tr>
<tr>
<td>Extortion</td>
<td>8</td>
<td>18</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Resistance against state officers</td>
<td>94</td>
<td>80</td>
<td>345</td>
<td>272</td>
</tr>
<tr>
<td>Sexual offences</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total violent offences</td>
<td>1.485</td>
<td>1.698</td>
<td>2.246</td>
<td>1.702</td>
</tr>
<tr>
<td>Damage of property</td>
<td>1.451</td>
<td>1.760</td>
<td>3.454</td>
<td>4.208</td>
</tr>
<tr>
<td>Coercion / threat</td>
<td>515</td>
<td>516</td>
<td>212</td>
<td>207</td>
</tr>
<tr>
<td>Propaganda offences</td>
<td>12.175</td>
<td>12.512</td>
<td>118</td>
<td>115</td>
</tr>
<tr>
<td>Thereof: spreading propaganda</td>
<td>32</td>
<td>33</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Thereof: use of signs/ insignia of extremism</td>
<td>12.143</td>
<td>12.479</td>
<td>117</td>
<td>115</td>
</tr>
<tr>
<td>Disturbance of a dead corpse</td>
<td>10</td>
<td>11</td>
<td>7</td>
<td>4</td>
</tr>
<tr>
<td>Incitement on the people</td>
<td>4.159</td>
<td>4.029</td>
<td>20</td>
<td>27</td>
</tr>
<tr>
<td>Violation of the law regulating public</td>
<td>711</td>
<td>453</td>
<td>2.163</td>
<td>1.351</td>
</tr>
<tr>
<td>meetings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violation of the Weapons Act</td>
<td>30</td>
<td>45</td>
<td>11</td>
<td>18</td>
</tr>
<tr>
<td>Other offences</td>
<td>2.424</td>
<td>2.531</td>
<td>1.374</td>
<td>1.757</td>
</tr>
</tbody>
</table>

Source: Ministry of Internal Affairs 2017
However, right-wing extremism overall dominates the field of extremist crimes, especially crimes such as hate speech (incitement of the people) and dissemination of propaganda, as well as violent offences, which are among common offences committed by right wing extremists. However, left-wing extremism in addition plays a significant role in extremist crimes (mainly damage of property, violation of the law of assembly, bodily harm). The so-called extremism of foreigners doesn’t play a significant role due to the relatively small numbers of offenses committed (mainly bodily harm and property damage). Propaganda offences do not play a significant role within this type of extremism in Germany. But there was an increase in the number of offences from 2015 to 2016.

Another count is carried out by the police: persons at risk of being radicalised and to commit violent offences are being counted. These so-called ‘Gefährder’ have not carried out extremist offences, but are the focus of the police due to the significant potential that they carry out attacks.

The potential for violence of potential violent extremist offenders (Gefährder) is as follows (no differentiation according to age and gender):

![Number of persons at risk being islamist terrorist known in Germany](chart)

Statistics on sentencing is another source of data.
### Number of Convicted Criminals in Regard to Relevant Offences

<table>
<thead>
<tr>
<th>Offence</th>
<th>Number of prison sentences in 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Adults</td>
</tr>
<tr>
<td>Dissemination of propaganda materials (§ 86 StGB)</td>
<td>33</td>
</tr>
<tr>
<td>Use of prohibited insignia / Using symbols of unconstitutional organisations (§86a StGB)</td>
<td>23</td>
</tr>
<tr>
<td>Preparation of a serious violent offence endangering the state (§ 89a StGB)</td>
<td>3</td>
</tr>
<tr>
<td>Breach of the public peace by threatening to commit offences (§ 126 StGB)</td>
<td>4</td>
</tr>
<tr>
<td>Forming/participation/support terrorist organisations (§ 129a StGB)</td>
<td>4</td>
</tr>
<tr>
<td>Forming/participation/support terrorist organisations abroad (§ 129b StGB)</td>
<td>4</td>
</tr>
<tr>
<td>Incitement of the people / Hate speech (§ 130 StGB)</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>77</strong></td>
</tr>
</tbody>
</table>


So, in 2015, there were “only” 82 persons sentenced to a prison sentence, thereof only 5 by the juvenile court. None of these offences were related to (used) violence; they were linked to propaganda, support and membership of a terrorist group.
Tarik S., Bielefeld

German Tarik S. (Ibn Usama al Almaniy - Arabic Kunya used during his time with Daesh), born in Bielefeld to an Egyptian father and a German mother, grew up in a socially deprived area. His mother, a convert to Islam, had to bring up Tarik S. and his three siblings on her own after the sudden death of her husband. Tarik S., who never gave any special attention to religion as a child, started to go to local mosques in order to learn more about Islam. However, most of the mosques frequented by Tarik at that time report that he soon received negative attention from fellow mosque-goers due to him openly questioning the mosque’s liberal/traditional religious understandings.

Tarik, who went to a secondary special school with an emphasis on emotional and social development, struggled to find work after graduation. He received help from several social institutions, who attempted to assist him in finding a job. However, Tarik S. quit several mediated internships, including among others a job as an assistant in a local mosque. He then decided to enrol in an Islamic school in Cairo, Egypt. Shortly after arriving in Egypt he suffered a gunshot wound to his leg during erupting riots in Cairo, which saw him immediately return to Germany for medical treatment. Friends and family report that Tarik S., who had shown signs of radicalisation even before his departure, had changed even further after his return. He now was reserved towards friends, family and professional contacts. People who knew him from mosque report that it was impossible to reach out to Tarik S. as he now had his mind set on violent radical interpretation of Islam, refusing to discuss his views.

A couple of months after his return from Egypt, Tarik S. disappeared for about two months before his family got to know about him being in Syria, fighting for Daesh. He most likely received a standard weapons training and was deployed in guard duties in several Daesh prisons in Syria. However, reports also suggest that Tarik S. took part in combat operations as well. About one year after his emigration to the Daesh ruled territories, Tarik S. appeared in several propaganda videos in German, urging viewers to leave their homes and emigrate to the ‘grounds of honour’ (i.e Syria/Iraq) or at least commit violent attacks in Europe. He subsequently emerged as a kind of propaganda poster boy for Daesh as he was featured in several more image, video and text contributions.

However, after three years in Daesh controlled territory Tarik S. and his wife, a Dutch national whom he had met in Syria, left for Turkey in order to return to Germany. It is not entirely clear if this was of his own volition, having tired of participating in violent conflict, or on behalf of Daesh operatives, in order to execute violent attacks on German soil.

Tarik himself did not offer any testimony in court and was sentenced to five years imprisonment for having participated in combat and joining a foreign terrorist organisation (§§ 129a Abs. 1 i. V. m. § 129b Abs. 1 Satz 1 StGB). Tarik S. will serve the sentence in a juvenile facility due to him being 19 at the time of the crime.
In Germany it is possible to use the Juvenile Court Act for the age group of 18-21 year old persons, if the court comes to the conclusion that the person is still in development at the stage of a juvenile.

There is no official statistics to be found on prison populations in relation to extremist / terrorist offences. However, there has been a first attempt to find out these numbers. In every federal state questions have been put to the government about this topic (2015/2016). A collection of these answers is the following:

<table>
<thead>
<tr>
<th>State</th>
<th>Given data on radicalised detainees</th>
<th>Limitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baden-Württemberg</td>
<td>5</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Bavaria</td>
<td>21</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Berlin</td>
<td>35</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Brandenburg</td>
<td>0</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Bremen</td>
<td>1</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Hamburg</td>
<td>5</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Hesse</td>
<td>No info</td>
<td></td>
</tr>
<tr>
<td>Mecklenburg Western-Pomerania</td>
<td>0</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Lower Saxony</td>
<td>4</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>North Rhine-Westphalia</td>
<td>No info</td>
<td></td>
</tr>
<tr>
<td>Rhineland Palatinate</td>
<td>1</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Saarland</td>
<td>1</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Saxony</td>
<td>No info</td>
<td></td>
</tr>
<tr>
<td>Saxony-Anhalt</td>
<td>0</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Schleswig-Holstein</td>
<td>3</td>
<td>Only Islamist</td>
</tr>
<tr>
<td>Thuringia</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

As seen above, relevant cases in German prisons have been relatively rare until now. There is a strong focus on the Federal States of Berlin and of Bavaria.

In addition, there has also been a survey about the situation in youth prisons. They got replies from 32 of the 36 existing youth prisons. ¾ of the questioned youth prisons replied, that the topic of radicalisation and extremism is of relevance for them. In nearly half of all youth prisons there has been one or more incidences related to the topic. In one third, extremist behaviour of at least one inmate has been noticed.

In 30 of the 32 youth prisons there have been further training courses for staff.

21 The numbers are changing (also depending on the source). E.g. in Bayern the numbers of Islamist behind bars have doubled in the last years – from 40 to 87 inmates.
8 youth prisons do cooperate with the Violence Prevention Network Berlin24 regarding deradicalisation work. Four institutions offered the so-called Denkzeit25-training.

The topic of radicalisation among juveniles therefore is relevant – until now – on a low level.

2. National legislation in the counter-terrorism context

2A. Evolution of legislation in the area of counter-terrorism

A certain degree of heritage can be found within the formulation of laws to protect the State and the Constitution against extremism in Germany. The first law came into force in 1871, a law against sedition (§130 StGB). It is against ‘propaganda offences’. This law has been reframed and reinforced since then (the last amendments date back to 2004, 2005, 2011, 2015).

There having been a first wave of terrorism in Germany in the 1970’s, this corresponds to the first anti-terrorism legislation (focussing on the Red Army Fraction (RAF)). Being a member of a terrorist organisation then became an offence (1976).

Since then, several changes and new laws against terrorism in Germany have come into force, especially with the occurrence of terrorist attacks in Europe and the US after 9/11. National laws and anti-terror legislation came into being. These laws (Gesetz zur Bekämpfung des internationalen Terrorismus (Terrorismusbekämpfungsgesetz) vom 9.1.2002) made some changes and new formulations in different existing laws to be able to fight terrorism by more successful means. They focus mainly on aviation security and on data preservation. The legal force of these laws was prolonged in 2011.

What changes have taken place in recent years in substantive (criminal) law that have also been implemented in procedural law?26 We shall now seek to illustrate how the development of German terrorism law can be reconstructed chronologically and systematically. We will primarily tackle legal provisions which – as detailed in the legal basis for punishment – are explicitly linked to the fight against terrorism. Additionally, further statutory provisions are considered which, whilst they do make explicit reference to ‘terrorism’, otherwise refer to or correlate with relevant material.

Fundamental legislative developments can be broken down into roughly three phases: phase one is based around German ‘left-wing terrorism’27 during the 1970s. So, for

26 Prof. Zerbes and Mrs Schlichte of the University of Bremen, Law Department kindly provided us with the following explanation.
example, Section 129a of the German Criminal Code (StGB) – forming terrorist organisation covering training in terrorist groups – came into force on 18.8.1976 and made legislative changes to the German Criminal Code (StGB), the German Code of Criminal Procedure (StPO) and other legal proceedings. These so-called ‘Anti-terrorism laws’ are a direct reaction to various attacks and acts of violence which have taken place and executed by the Rote Armee Fraktion (the Red Army Fraction, a far-left militant group), Bewegung 2. Juni (militant anarchist movement) and other ‘Revolutionärer Zellen’ (disparate but allied far-left militant groups active throughout Germany). This wave of kidnappings, killings and violent attacks continued unabated over the following years so that, in the mid-1980s, Section 129a of the German Criminal Code was broadened and tightened, consolidated as extensive amendments in the 19.12.1986 Fight Against Terrorism Act.

The second phase of legislative development addresses Islamist terrorism. Following the Al-Qaida attack on the World Trade Centre, German legislative authorities reacted by – amongst other things – broadening Section 129 (and subsequent Sections) in a wide variety of legislative changes.28 The 34th Amendment to German Criminal Code which came into force on 22.08.2002 considers the criminal liability of the defendant and the degree of support from criminal and terrorist associations. This is covered extensively within Sections 129 and 129b, covering the formation abroad of criminal and terrorist organisations respectively.

Phase three is still in progress, with transitional measures emerging fluidly from previous phases. Section 89a of the German Criminal Code has had a particularly formative effect in this current period, since this covers the elements of the offence of preparation of a serious violent offence endangering the state. These and further sanctions (Sections 89b and 91 of the German Criminal Code) revisit legislation covering the prosecution of the preparation of serious violent acts (the so-called GVVG) from 30.07.2009.

With these amendments, legislators are no longer simply reacting to attacks which have resulted in death or major damage to property. Instead, Section 89a of the German Criminal Code is more significantly a reaction to attempted attacks: in September 2007, members of the so-called ‘Sauerland Group’ were arrested. This group had planned to commit a bomb attack on US soldiers on German soil. The group has been arrested long before perpetration of the attack, due to amendments to legislation which made it possible for alleged activities in which presumed terrorists still remained exempt from punishment. These were now considered as ‘relating to terrorist activities’ and became punishable under Section 89a of the German Criminal Code, which was extended to cover actions prior to a planned offence. As outlined in the legal basis, “Whosoever prepares a serious offence endangering the state shall be liable to legal intervention at the earliest possible opportunity. With particular reference to so-called suicide attacks, the time between planning, attempt and completion of the act can be remarkably short. An extended scope of criminal liability is therefore a prerequisite of state security.”29

28 Especially: Terrorismusbekämpfungsgesetz 09.01.2002.
29 BT-Drs. 16/12428, S. 1.
In contrast to the previous two phases of legislative development in the area of terrorism, these changes to Section 89a of the German Criminal Code are less devoted to offenders who align themselves generally - in a criminal sense - with terrorist organisations. Instead this section specifically addresses individual offenders who undertake certain preparatory actions (as detailed in section 89a sub-section 2 of the German Criminal Code) with the specific intention of committing a serious offence. Despite considerable criticism expressed early on against Section 89a, the elements of the offence were once again extensively expanded in 2015: now not only is the independent acquisition of funds for terrorist purposes covered, but also Section 89a has been broadened with the addition of Sub-Section 2a. This concerns anyone undertaking a journey outside of the Federal Republic of Germany with the intention of committing or preparing to commit a serious offence endangering a foreign state. With this addition, the scope first established in Section 89 in 2009 of the liability of the preparatory phase is broadened considerably. Consequently, with these additional entailments of Section 89a Sub-Section 2a, the trend is set to respond ever earlier to terrorist-intended breaches of rights with criminal prosecution.

Following the 2016 attack on the Berlin Christmas Market on the Breitscheidplatz, further changes to the substance of legislation were agreed. For example, Section 66, Sub-Section 3 was expanded allowing it to become possible to impose preventive custody on extremist offenders. Henceforth too, directives could be issued through changes to the legislation covering probationary supervision of conduct for specific terrorist-related offenders (compare Section 68b, Sub-Section 1 S. 3). These directives relate to the electronic monitoring of places of residence, and make available the necessary technical instruments to support monitoring, keeping them in good working order and not compromising the operational capabilities of the equipment (Section 68b Sub-Section 1 S. 1 No. 12).

Further changes to the law took place in mid-2016, concerning the legal framework of the anti-terror policies of state. The main focus was on possibilities of data exchange between the security services (police, intelligence services), data collection and the rights of secret/hidden observation and monitoring. In addition, there was an additional amendment (Änderungsantrag) legalising the monitoring of youths from 14 years onwards (age reduction from 16 years).

The legislative developments detailed here offer only a glimpse of the whole system of ‘Legislative Sources for the Fight against Terrorism’. Criminal procedural law too has undergone a massive upgrade (in terms of data retention, sources of telecommunications surveillance, spyware). These developments cannot and should not be left out of any full examination. And parallel to legal changes, there have been considerable changes outside of criminal – and criminal – procedural law. Directly after the Berlin Breitscheidplatz attack, the security, national intelligence and police and supporting legal services have had to apply themselves ever more to tackling the phenomenon of terrorism. Here too, questionable legislative developments should be drawn attention to. Just to take one prominent example of this, as a result of the attacks in Berlin, Bavaria introduced indefinite preventive custody. Their stated aim is to use the original preventative intelligence legislation to “withdraw” so-called persons posing a threat to public safety on a long-
term basis. This is even if it cannot be proven that the person has yet been involved in concrete or preparatory criminal acts. These developments in police and regulatory law have also to be taken into account.

Germany still is obliged to put into force in German Law the EU-DIRECTIVE 2016/800 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings within three years.

List: Offences – in the field of anti-terror-legislation:

- Membership of a terrorist organisation (§ 129 a StGB, in force since 1976)
  - Persons make themselves liable if they found a group (at least three persons; for a long time) or becomes a member of such a group; which goal is the perpetration of murder or other offences. Sympathy for the group is not a sufficient sign.
- Membership of a foreign terrorist organisation (§ 129 b, in force since 2015)
  - Support of a terrorist organisation
- Preparation of a severe violent offence against the state (§ 89a StGB – in force since 2015)
  - Making of bombs; to procure materials for the production of bombs
- Training in a terror camp in foreign countries (§89b, in force since 2015)
- Financing of terror organisations by collecting significant cash assets (§89c, in force since 2015)
- § 130 StGB Incitement of people (Volksverhetzung)
- § 131 StGB Dissemination of depictions of violence
- Other acts constituting an offence (planned, done)
  - To leave the country with the intention of going to a terror camp.
  - Revocation of the passport when there is suspicion an individual may go to a terror camp.

The legal aspect does not only play a role in the security approach, but is also relevant in the field of prevention.

First of all, all counselling of juveniles and young adults should take place under the obligation to take care of tasks and rights of young persons, written down in the Section 1 of the Code of Social Law VIII (Aid of children and youth).

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31 See § 1 SGB VIII The Right of Education, the Responsibility of Parents; Youth Aid.
(1) Every young person has the right of support of his development and of education to an autonomous
For practical work, aspects such as Section 138 of the German Criminal Code; (Not reporting potential offences to the police) are of relevance due to the fact that the social worker is not bound to maintain confidentiality (Schweigepflicht). They can be accused of withholding information.

Having to cooperate with the security institutions (police, Office for the Protection of the Constitution) it is a significant problem for social workers, most of whom are members of an NGO, due to their not being bound to maintain confidentiality. Not being seen as a member of the ‘system’ by their clients is a great advantage for them, helping to create trust.

Working in a network of institutions (police, social affairs, youth aid, office of the protection of the constitution and others) the topic of information flow and data protection are also important fields of discussion. However, practical implementation differs in all the 16 Federal States of Germany.

12 year old from Ludwigshafen, Rhineland-Palatine

A then 12 year old boy from Ludwigshafen in Rhineland-Palatine was arrested by the end of 2016 for placing two home-made bombs at the Christmas-market as well as the city hall in his hometown. The child, who holds dual Iraqi and German citizenship, is said to come from a difficult family background and has had trouble at both school and home in the past. He therefore had made use of counselling through the youth welfare office for at least one year before the attempted attack. However, several news outlets later reported that he had been looked after by a social worker with alleged ties to the Salafist scene and been part of the infamous “Lies” campaign, distributing editions of the Koran in several cities. Some of the people having immigrated for Syria / Iraq in order to join a militant group abroad have taken part of the campaign before their departures.

However, due to his young age, he was not criminally liable. Persons who are younger than 14 years old cannot be sentenced in front of a criminal court (§ 19 StGB). However, a family court has the right to order certain measures outside regular criminal proceedings in order to tackle a child’s negative development.

The court therefore decided to send him to a closed off institution where he stays together with his parents and seven social workers, guarded by an external security company, aiming to tackle his radical convictions and his willingness to make use of violence.

person and a social personality.
(2) Care and education are natural rights of parents, and it is their obligation. The state takes care about their activities.
(3) To fulfil the rights of paragraph 1 Youth Aid shall:
Support the individual and social development of young persons and avoid and reduce disadvantages,
Counsel and support parents and other legal guardians doing education,
Protect children and juveniles against risk of their well-being,
Contribute to create and maintain positive life situations for young persons and their families as well as a child and family friendly environment.
http://www.sozialgesetzbuch-sgb.de/sgbviii/1.html
2B. National legislation connected to the radicalisation issue implemented in the country

There are no specific recent laws in Germany responding to the new emerging thread of radicalisation. It is seen that most phenomena can be dealt with by existing laws.

2C. National legislation connected to the specific need of juveniles (under 18) suspected or accused of violent extremism or terrorism

See above.

2D. National policy and strategies connected to the terrorism issue implemented in the country

Complaints have been heard that there has been no special regard given to the situation of juveniles in policy and state reactions to recent sentencing of juvenile offenders with an extremist background.\(^\text{32}\) There currently is a trend within the German justice system to sentence those juveniles in an adult setting. Juveniles are brought before the OLG / Higher Regional Court (Staatsschutzgericht – State Security Court), due to the fact that the offences are seen as politically motivated/extremist offences/offences against the Constitution and the State.\(^\text{33}\) So there is less consideration given to having the offence heard at the Juvenile Court (which is legally the first choice). The OLG is seen as having more expertise in dealing with political crimes. That way, offences regarding terrorism are currently of public and political interest, and are therefore brought in front of the OLG.

However, the OLG does not have the ability to take the juvenile context into account. They are not trained in regarding special juvenile development and their specific situation. They are not trained in taking account of the principle of education, an obligation of the Juvenile Court Act. A trial at an OLG can be more of a traumatising experience for juveniles, as they may struggle with not knowing what is going on, being held in a high security environment, having difficulties with the language used in this court, sometimes being brought before it in hand and foot shackles, and surrounded by unknown people.

2E. Preventive programs or alternatives measures for juveniles to counter-terrorism in the country

The following project does not distinguish between juveniles and adults; it is a general concept working for all groups.


\(^\text{33}\) First cases of returnees from Syria have been dealt with at the Higher Court. Even if it is not proven that the juvenile did take part at war activities, they can be sentenced (as being a member of a terrorist group). F.e., in a Case in Frankfurt the OLG sentences a now 20 year old young men to a youth prison sentence of 3 years and 9 month (membership of a theorist group) on the basis of the Juvenile Court Act.
Practice sheet:

a. Project title

„Prävention von Radikalisierung in nordrhein-westfälischen Justizvollzugsanstalten“
(Prevention of Radicalisation in prisons in North Rhine-Westphalia)

b. Location

Remscheid Prison, in charge of all prisons in NRW

c. Duration

No info

d. Key words

Deradicalisation, Prevention, Islamic counselling

e. Background

With almost 20 million inhabitants, North-Rhine Westphalia is Germany’s biggest federal state. Almost half of all German Jihadists ready to use violence are situated in the state – around 500 of the 2,500 Salafists in NRW.

f. Objectives

The project “Prevention of Radicalisation in prisons in North Rhine-Westphalia” merely aims to establish measures ensuring sustainable security and protection of the general public. In addition to this, the project aims to strengthen the ability to act within the prison system, as well as establishing preventive measures relating to the threat of radicalisation within the prison system. In order to achieve that, the project aims to integrate inmates into daily life in prison as well as to further reintegrate them into society after their release from prison. In order to achieve these goals the following contents are particularly decisive:

- The development of an action plan dealing with already radicalised inmates as well as the examination of existing measures countering radicalisation within prison;
- Preventive measures relating to impending radicalisation processes;
- Conducting of training in order to strengthen judicial staff regarding the interaction with Muslim inmates;
- Integration of Muslim chaplains/Islamic counselling into the project;
- Improvement of language skills;
- Support of integration opportunities after the release from prison.

g. Target groups

Judicial staff; inmates
h. Strategy and activities

The project is structured with four pillars supervised by the Ministry of Justice of North Rhine-Westphalia and carried out by “Prevention” and “Integration representatives”:

- Training
- Overall counselling
- Prevention
- Islamic Counselling

The tasks of the “Integration representatives” are:

- Translation and explanation of information of procedures within prison
- Mediation of “peer guides” and “integration pilots” to foreign prisoners
- Conflict resolution in conflicts whose origin is due to cultural differences
- Exchange of expertise during coordination meetings with integration officers of other prisons in North Rhine-Westphalia
- Coordination of Muslim religious services
- Collaboration with imams:
  - For Islamic Friday prayers, religious counselling – religious support
  - No official status of pastoral counselling due to the lack of a “state contract” manifesting constitutional and legal rights and obligations for Muslims
  - Friday prayers aren’t associated with any specific movement in Islam
  - Attendances for Friday prayers usually is between 50-70
  - In addition, Imams provide discussion groups twice a week in order to discuss basic religious topics
  - Imams have to undergo a security check

Tasks of the “Prevention representatives” are:

- Development of an awareness program for religious and civic education (mainly for Muslim inmates)
  - Obligatory for inmates at risk of being radicalised
  - Duration: two months
  - 8 modules on following subjects:
    - General information about the religion of Islam
    - Civic education
    - Information on Islamophobia
    - Training regarding religious and culture-related questions for judicial staff (3-6 hours)
      - Needs assessment via anonymised questionnaires sent to all employees in prisons throughout North Rhine-Westphalia (according to the project the questionnaires have a participation rate of 77%)
- Up to 1500 judicial staff have been trained with the course “Islam – tendencies – Muslims in Germany”

- General counselling for judicial staff regarding Islamism
- Assessment of religious texts, authors, symbols
- Assessment/Categorisation of inmates who have been noticed with statements/actions linked to Islamism/extremism
- Selection and provision of religious literature promoting democracy

i. Partners

External imams, external interpreters.

j. Budget

No info

k. Results

First experiences: reinforcement of staff – positive reception in media

3. Administrative measures in the counter-terrorism context

3A. Description of the different types of restrictive measures aimed at preventing terrorism in the country (control orders, travel bans, house arrests, etc.)

Due to the change of the powers of intervention of the police (grounded in the concept of “persons at risk”) some restricted measures have been put into place for the group concerned:

- Preventive imprisonment (Sicherungshaft § 112a StPO); (in the federal state of Bavaria even without limit)
- The use of electronic monitoring
- Probationary supervision (Führungsaufsicht)
- For persons without German Nationality: deportation due to the fact of being a ‘Gefährder’ (person at risk)\(^\text{34}\)

In prison, possible interventions for potential extremists are: telephone surveillance; surveillance of visits; surveillance of post.

The use of these measures is very different in the 16 Federal States of Germany.

\(^{34}\) Based on the Residence Act (Aufenthaltsgesetz § 58a – Abschiebungsanordnung).
3B. Description of the possibilities to challenge administrative measures

See above.

Izmulla A., 18, from Bremen

Izmulla A. came to Bremen when he was three years old after his family decided to flee the worsening situation in Dagestan, northern Caucasus. Izmulla A. quickly integrated into school and leisure activities. He was successful in the local Judo gym and made it into secondary school. However, the new school and increased expectations overstrained him and his marks began to slide. He then presumably started to look for a meaning in life, support and stability. When aged 15, he engaged with people at the local mosque, known as the “Culture and Family Association", which is indefinitely banned . Most of the 28 people that left Bremen to travel to Syria and Iraq were associated with the "Culture and Family Association".

Izmulla A. then first appeared on the radar of the security authorities when police searched the mosque after a few of its regular visitors left for Syria in 2014. Security services from then on kept an eye on him, and therefore caught him planning an attack on a shopping mall during an online chat with another jihadist from North Rhine-Westphalia. He was arrested and classified as a significant danger to the general public, which enables the authorities to deport a person, even if the crime committed usually would not be enough to be expelled (§ 58a Deportation order). Yet it was feared that Izmulla A. could face human rights abuses when sent to Dagestan. However, the Federal Administrative Court as well as the Federal Constitutional Court came to the conclusion that this was not the case as long as he would be sent to Russia instead of Dagestan. Regardless of that, the European Court of Human Rights stopped the deportation in a summary proceeding shortly before its implementation in order to further examine the safety of Izmulla A.. However, and contrary to the case assessment of Amnesty International, the ECHR came to the conclusion that Izmulla A.’s safety can be guaranteed when expelled to Russia. Izmulla A. was then deported in early September 2017.

4. Conclusion

The process of reacting to the danger and risk of violent extremism is characterised by a trend in police and institutions of security to try to react before there is the occurring danger of action. Any preparatory activity (defined by the security institutions) can be a reason to intervene for the police or the secret service. And there have been changes in the legal system, especially in police law, but also in others, to ‘legalise’ this kind of pre-empting (Vorverlagerung) of the possibility to react (powers of intervention of the
police). New activities even change from a concept of a ‘concrete danger’ to a ‘possible impending danger’ (defined by the police) will hopefully be criticised due to their element of uncertainty (Unbestimmtheit) and their restriction of fundamental rights. Some even ask if these changes are compatible with our constitution. The policy is grounded in arguments of prevention of terrorist acts.

What is missing in the political and medial discussion is a strict differentiation between violent extremists (like terrorists, returning foreign fighters, persons planning terrorist acts) and people at risk. Police and security institutions merely focus on violent extremist. The topic is public safety and security. The relevant age group of these persons is mostly older than 21 years.

Prevention work in Germany strongly focusses on the group of people at risk of radicalisation. This work is financed and organized by social and youth departments. The clients are mostly between 14 and 18 years. The work takes place at school or in youth institutions.

However, there is an overall dominance of the security discourse, focusing mainly on violent extremists, in the public and political discussion. Consequently the particular context of young people - of juveniles – is often overlooked. We are only now hearing the first complaints about this situation: they insist on taking into account the fundamental principle of education in the youth justice system (formulated in the Juvenile Court Act (JGG)) also in cases of juvenile extremist offenders.

A further discussion focusing on returnees, only started recently. In this discussion the group of children coming back comes into the focus (there is the estimation of experts that the numbers of minor returnees is very low; the perception in the media/politics is that the numbers will be high). That way there is a new demand for the social and youth departments to deal with the question of radicalisation and reintegration. The other group coming into the focus is the group of minor ‘Gefährder’. And in this discussion there will be probably a stronger focus on child care and child protection.

On the legislative level, politics are not documented by formulating new laws on the level of the Penal Code (but of course, some new offences have been established, such as the forming and supporting of a terrorist organization and others). Most changes refer to the law of the police and to procedural laws (or even at the level of orders). The laws refer to the work of institutions, their powers of intervention, the question of information flow between institutions, preventive imprisonment, exemption from telecommunication secrecy and others). These changes also regulate the cooperation and information exchange between police and security institutions – especially to improve cooperation (from the point of security).

In summary, it can be said that the discourse of taking into account the special situation of juveniles within the field of violent extremism is still in its early stages in Germany.

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University of Miskolc, Faculty of Law, Institute of Criminal Sciences, Department of Criminal Law and Criminology

Erika Váradi-Csema
Vice-Dean, associate professor

Bence Udvarhelyi
Scientific researcher
1. Counter-terrorism approach and policies (under 18) in Hungary

1A. Sociological background, the roots of terrorism in the country, definition of ‘terrorism’, ‘violent extremism’, ‘counter-terrorism’ used in the country

a) The definition of terrorism, extremism and violent extremism in Hungary

The concept of terrorism can be defined from several viewpoints, because different content elements are highlighted by political science, criminology or criminal law.

Criminology emphasizes the unexpected and diverse nature of the criminal offences, the invisibility of the preparation and cooperation, the high level of mobility of the perpetrators and their excellent recruitment ability. Criminology also refers in particular to the special causal background of these behaviours and to the perpetrators concerned. In connection with etiological questions, various economic factors, economic inequality between the countries, vulnerability due to the exclusion from economic powers, the “enemy image”, as well as typical cultural-educational features, poor social or employment conditions, and the psychological characteristics of the given person equally are important. Therefore, criminology speaks primarily of the specificities of terrorism as a transnational social phenomenon, whose essential intention is the accomplishment of socio-political objectives by targeted unlawful attacks directed against the persons of the civil sphere or valuable of goods.1 Other authors emphasize that terrorism can be described as the use of various forms of violence or the threat of violence with political objectives through the intimidation of victims, the audience, the state, and society.2

According to the latest criminological work, terrorism may be motivated by financial interests or has an ideological basis as well. Terrorism can be both organized and individual. In connection with this terrorism is distinguished from the notion and the phenomenon of organized crime since organized crime is considered a kind of ideologically and politically neutral unlawful act. Nevertheless, there are point of views that terrorism is a special form of organized crime. The common feature of the two phenomena is that there are often illegal assets arising from illegal drug trafficking or trafficking in human beings behind the organizations or groups which commit organized crime or terrorism. Furthermore, the organized nature of these crimes and the inner hierarchy of these groups is also a common feature. However, the aforementioned political ideological background is only connected to terrorism and terrorist attacks can also be linked to individual perpetrators.3

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The criminal law definition of an act of terrorism is influenced by definitions in the relevant international documents. The act of terrorism is criminalized since the 1st January 2017. According to the Criminal Code of 1978, “the person who deprives another person of his personal freedom, or seizes considerable material goods, and makes dependent the release of the person or the leaving in undamaged state, or returning, of the goods on fulfilment of a demand addressed to a state organ or social organization, commits a felony, and shall be punishable with imprisonment from five years to fifteen years”. The connection of the Hungarian legal theory and case law to international documents has continued in the last decades, therefore the new Criminal Code, Act C of 2012, also relied on the relevant EU and other international documents when defining the concept of terrorism. According to the definition of the Criminal Code, “any person who commits a violent crime against the persons or commits a criminal offense that endangers the public or involves the use of arms in order to coerce a government agency, another State or an international body into doing, not doing or countenancing something; intimidate the general public; conspire to change or disrupt the constitutional, economic or social order of another State, or to disrupt the operation of an international organization is guilty of a felony punishable by imprisonment between ten to twenty years or life imprisonment. Furthermore, any person who for the aforementioned purposes seizes considerable assets or property and makes demands to government agencies or international organizations in exchange for refraining from harming or injuring said assets and property or for returning them, or organizes a terrorist group, shall be punishable” (see further: Point 2A-2B).

It can therefore be seen that while the criminological concept primarily aims for a comprehensive description of the phenomenon of terrorism and thus incorporates its typical features into the definition, the criminal approach intends to set out clear conceptual criteria, which guarantee the applicability of the criminal offence, taking into account the aspects of legal certainty.

While the notion of an act of terrorism and terrorism is clearly defined in domestic criminological and criminal law sources, the definition of extremism is a more complicated issue. Extremism is not equal to radicalism. With its strong political attitude, radicalism still accepts the framework of parliamentary democracy, while extremists also act in order to achieve their ideas. As result of this distinction, violent extremism embraces all forms of extremism that use violent means in order to enforce their principles and ideas. However, the distinction between radicalism and extremism is not accepted by all professionals.

After the change of regime (1989-1990), and especially from the beginning of the 2000’s, there was a clear strengthening towards radical right-wing ideas in the Hungarian society. The Demand for Right-wing Extremism Index (DEREX) was created to measure the degree of right-wing extremism in a country based on the European Social Survey database.

The index is composed of 4 elements. Three of these elements constitute the essential part of right-wing radicalism based on the unified view of professionals while the fourth element is a subjective factor whose existence greatly enhances frequency and extent of the other three elements:

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1. prejudice and welfare chauvinism
2. right-oriented value orientation (extreme right-wing self-definition, traditionalism, regularity and compliance with rules)
3. opponent of the regime (distrust of the political system, the legal system and law enforcement, the political elite, the international organizations)
4. fear, mistrust, pessimism (discontent with life, economic uncertainty and concern, public security fears, suspicion against others)

According to the DEREX index, extremism can be observed if somebody meets at least three of the four aforementioned criteria.\(^5\)

The fact, that the number of people who sympathized with right-wing (or extreme right-wing) radicalism significantly increased in the 2000’s in Hungary, was particularly interesting among the professionals, since Hungary was governed by left-wing or liberal governments between 2002 and 2010. Nevertheless, while the proportion of potential right-wing extremists was only 10% in 2002, it increased to 21% by 2009.\(^6\)

It is also interesting that prejudice and welfare chauvinism rose from 37% (2002) to 52% (2009). However, the ground behind this was not racial, ethnic or other discrimination, but it had rather to do with economic reasons. The Hungarian population is not characterized by culture-chauvinism or ethnonationalism, but with the fear that the financial support or assistance of persons arriving in the country put an extra burden on the citizens.\(^7\)

Perhaps one of the most prominent data which also clearly reflects the sharpest criticism of the period between 2002 and 2010 was in connection with the number of people who are opponent of the regime. When the right-wing government declined in 2002, the rate persons who are opponent of the regime was 12%, which increased to 46% by 2009. Perhaps even more striking is the sudden increase of the mistrust of the political elite. While the proportion of mistrust of the Parliament and the politicians was only 7% in 2002, it increased to 34%. At the time of the Gyurcsány government at the beginning of 2009, the proportion of extremist anti-government protesters was 53% (!). When the Fidesz government declined in 2002, the proportion of dissatisfaction with the government and with the democracy was only 4% it rose to 26% in 2009.

It has to be seen, therefore, that after 2002, opposition to the regime and prejudice have increased enormously due to complex reasons. The current political processes and social relations affected negatively the vast majority of the population, which was further strengthened by the deterioration of the economic situation as well as by the closeness of the Hungarians.

These circumstances, the disappointment and the lack of answers and actions further amplify the already present aloofness which can be related back, among other things,
to the years of socialism with its fragmented social circumstances, individualism, and destruction of the civil activity.

If we consider the Hungarian population over the age of 15, the proportion of people who sympathize with the right-wing radicalism increased from 10 to 21%. Studies show that rural and low-educated people are more receptive to these ideas, but the spread of radicalism can be observed among urban better educated people as well.8

In spite of all this, in everyday life, especially in the field of unlawful behaviour, the youth are not present in either left or right extremist groups, organizations, etc. Although following the change of regime several moves were made which – aiming to bring order and restore public safety – have had some decisive political impact9, Hungarian research report especially the involvement of the adult and young adult population10. All this stems from the rhetoric of terrorism and extremism. It seems as if the leaders of the extremist groups speak in the name of the society as a whole and propose immediate measures to eliminate threats generated by social imagination. So they could gain legitimacy for their actions11.

Although political parties from the 90’s tried to involve young people in the political struggles, the most significant successes among the extremist groups were achieved by consolidated skinhead propaganda (e.g.: Eger National Youth Organization).12

After the change of the regime (1989-1990), already from the 1990’s groupings identified with arrow cross ideology were established – such as the “Hungarian National Front” (Magyar Nemzeti Arcvonal (MNA)) or the “Blood and Honor Cultural Association” (later Pax Hungaria) -, but their number, their importance and their role were negligible. The right-wing orientated “Sixty-Four Counties Youth Movement” (Hatvannégy Vármegye Ifjúsági Mozgalom (HVIM)) existed from 2001 as well, but the majority of society was not aware of its existence. The change took place in the 2000’s, when the attention of society turned towards public security. Some new organization - like the “Hungarian Guard” (Magyar Gárda) founded in 2007 or the “Outlaws Army” (Betyársereg) founded in 2008 - used this situation and focused in their rhetoric on the questions of public security and the inability of state organs. Since there was a political party (Jobbik) in close contact with these organizations, public opinion widely acquainted them and their goals. Then, several smaller organizations came into life.

However, in parallel with the change of political attitude towards Jobbik (rotation) and other social processes and legal action, significant changes have taken place in this area. Movements have been set up and disappeared (e.g.: “New Hungarian Guard” (Új Magyar

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10 See more detailed the researches of the Athéna Institute Web: http://www.athenaintezet.hu/europa/ osszehasonlito_adatok.
Gárda), „Hungarian National Guard“ (Magyar Nemzeti Gárda), “Guarding Hungarian Guard“ (r Z Magyar Gárda), “Brighter Future Civil Self-Defense Association” (currently “Brighter Future Hungarian Self-Defense“) (Szebb Jöv ért Polgár r Egyesület / Szebb Jöv ért Magyar Önvédelem), „Defence Force“ (Véder ), „Carpathian Homeland Guardians Movement“ (Kárpát Haza rei Mozgalom), but their significance falls continuously even to this very day; the society hardly hear about their existence.

In connection with the terrorist activity in Hungary the “Hungarian’s Arrows National Liberation Army“ (Magyarok Nyilai Nemzeti Felszabadító Hadsereg) stands out among these organisations. Since its founding in 2007, the group, headed by György B., had carried out several Molotov-cocktail attacks and had planned more explosive attacks (aggressions).

György B. and the other 16 people are currently being prosecuted13, including for the commission of terrorist acts. According to the indictment, the aim of the organisation, with recourse to violent acts, was to change of the politics of the socialist-liberal government and to induce fear in the part of population which support this government. The procedure is also special because it was the first time in Hungary that the authorities took action against a suspected domestic terrorist organization and terrorist acts committed by it14. György B., who was taken into custody by the police in the spring of 2009, denies that he committed a criminal offense. The subject of the dispute in the criminal procedure15 is whether the acts committed by perpetrators constitute acts of terrorism or, say, vandalism16. It is a fact that the ultimate purpose of the actions was political pressure, influence, and fear-creation. In connection with the acts there were no hostage-taking, seizure of material goods or inquiry claim for money or fee. The group was characterized by a low level of organization, and the usage of primitive materials in the arson and in the Molotov cocktail attacks. They also paid attention to not causing personal injury (except for one disputed case). “Happy is the country which has such terrorists" - said György B.’s defender17.

b) The history of terrorism in Hungary

In Hungary, terrorism in the sense understood by criminal law is a very rare criminal offense. Terrorism has no historical roots. This fact has partly sociological, social, and partly historical reasons.

Looking at the history of Hungary18, it can be seen that terrorist behaviour has been very limited in our country. Periods where state terror reigned naturally can be found

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in our history as well, related to periods of great social upheaval and political changes, e.g. the state terror of Haynau after the revolution of 1848/49. In the period of the so-called “Soviet Republic”, which dated from March 1919 to August 1919, the activities of the group of Lenin boys, made up of approximately 200 people, were significant. They committed several violent offences wherever they thought that the “Soviet Republic” could be endangered. Approximately 300-600 people fell victim to their attacks. The so-called “Red Terror” was then followed by the “White Terror” and its wave of violence resulted in the deaths of approximately 300 victims.

In the autumn of 1944, Ferenc Szálasi, built a dictatorship under which anyone could become a victim. Following the Second World War, the country was led by the Mátyás Rákosi and 100-200 individuals were sentenced to penalty simply because they were regarded as the enemy of the Communist regime. After the Revolution of the 23th October 1956, approximately 200 people were executed because of their participation in the Revolution.

Beyond the period of state terror, there are few examples of “classical” terrorist attacks in the history. One of the most famous terrorist attack took place on the 13th September 1931, when Szilveszter Matuska blew up the Biatorbágy viaduct over which the fast train to Vienna passed. As a result of the explosion, a part of the viaduct collapsed and 22 people died. According to historians, the attack had a clear political character and Matuska Szilveszter belonged to the Communist party, although there are several doubts in connection with the commission of the criminal offence.19

Many decades passed until another significant terrorist act took place in Hungary. Between the 7th and the 12th of 1973, two perpetrators (András P. and László P.) took hostages in the Youth Hostel of Balassagyarmat and put forward a number of demands which were changed several times. The release of the 14 girls was subject to the payment of one million forints and the guarantee of the authorities that they leave the perpetrators to “escape to the West”. At the end, one of the perpetrators, András P. was shot and László P. was arrested and sentenced to 15 years of imprisonment. This criminal offence can be regarded as the first terrorist attack in the modern Hungarian history. However, this conduct cannot be regarded as an act of terrorism because the current Criminal Code did not contain this criminal offence.

After the change of the regime in 1989-1990 and the opening of the borders, several mafia-like criminal offences, the redistribution of the black market, and encounters between foreign and domestic criminal group took place. One of the most famous terrorist attack of the area was the bombing at the Ferihegy expressway. In December 1991, the extreme left-wing German Red Army Fraction and Palestinian terrorist groups implemented a joint plan which sought to intimidate Israel. During this period, following the collapse of the Soviet Union, a large percentage of the Jewish population departed for Israel through the Hungarian airport. As the passengers arrived at the airport the two German offenders exploded a bomb, however, it did not cause serious bodily injuries.19

One of the perpetrators was shot 8 years later in Vienna and the other perpetrator was sentenced in Germany to 12 years of imprisonment.

The act of terrorism was criminalised in the Criminal Code of 1978 (see Pont 2A). Although the criminal offence of act of terrorism has been in force from the 1st January 1979 (Hungary was among the few European countries where a terrorist offence was punishable as a separate offence), it has not been used for a long time even in case of behaviour which could easily be regarded as act of terrorism. For example, in August 1986, Tamas D. broke in the Museum of Fine Arts in order to take a valuable picture and blackmail the authorities. Though the painting of Tintoretto was not removed from the wall, he put his knife to the picture, and stated that he would destroy the picture if the minister of health did not provide him written authorisation to undergo a sex change operation. The court did not classify the act as an act of terrorism but as attempted vandalism.

The first final judgment, where the court ascertained the commission of act of terrorism, is linked to a criminal offence committed in 1994. Following the rejection of his loan request, Illés P., under the influence of alcohol and sedative medicines, entered a casino in Debrecen and demanded the director of the casino at gunpoint to lock the casino and to call the police commissioner of the county. He was able to speak to the police commissioner by phone. He told the police commissioner that he would kill the remaining 18 persons in the casino if he was not given the chance to make a live broadcast on the day. His goal was to reveal the story of his bankruptcy. The perpetrator was arrested by police officers disguised as a TV crew and the court sentenced him to 10 years of imprisonment.20

1B. The most common forms of terrorism and the profiles of youngsters suspected or accused of terrorism or violent extremism in the country

In Hungary, the number of terrorist offences is minimal compared to the number of all criminal offences and these crimes were committed only by adults and not by juveniles. The source of criminal statistics in Hungary is the Unified Criminal Statistics System (ENYÜBS), which contains data for recognized criminal offences and offenders, as well as for the procedures carried out by the investigating authorities and the prosecutors.

Between the entry into force of the criminal offence of act of terrorism in 2010, a total of 40 terrorist acts were registered and their number was very low in 2017 as well.

Between 2013 and 2018 the number of “terrorists”21 registered are as follows:

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21 at the beginning of criminal procedure (not final judgment!).
YEARS 2013-2018

<table>
<thead>
<tr>
<th>THE NUMBER OF PERPETRATORS COMMITTED ACT OF TERRORISM</th>
<th>man</th>
<th>woman</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-13</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>14-17</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>18-24</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>25-59</td>
<td>12</td>
<td>4</td>
</tr>
<tr>
<td>60-…</td>
<td>4</td>
<td>0</td>
</tr>
</tbody>
</table>

1 source: https://bsr.bm.hu/SitePages/ExcelMegtekinto.aspx?ExcelName=https%3a%2f%2fbsr.

The judicial criminal statistic inform us about the low number of ultimately convicted individuals.

<table>
<thead>
<tr>
<th>FINAL CONVICTED OF TERRORIST ACTS¹</th>
<th>YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>adult</td>
<td>2</td>
</tr>
<tr>
<td>man</td>
<td>2</td>
</tr>
<tr>
<td>juvenile</td>
<td>0</td>
</tr>
<tr>
<td>man</td>
<td>0</td>
</tr>
</tbody>
</table>


The research specifies the various types of terrorism, such as ideologically motivated terrorism, ethnic terrorism, religiously motivated terrorism, state terrorism and terrorism of ‘chosen’ (mission awareness).²²

Contrary to terrorist acts committed in the international sphere, Hungarian terrorist acts are typically “special kidnapping cases” which are considered as act of terrorism because the claim of the perpetrator is addressed to a public body or a social organization.

The background of these cases is often the escalation of a family conflict or desperate act of a former spouse. For example, there was a case where the perpetrator took his own mother hostage with a knife and threatened the local police station in Pécs by phone that he would kill her mother if his wife and children were not brought to him and he didn’t receive a car to escape.²³

²³ Cited by Tóth Mihály: A terrorcselekmény büntetőjogi szabályozásának és gyakorlatának változásai.
In another case, the perpetrator took his former partner and her daughter hostage because of jealousy and he stated that he only would release them if the police paid him a certain amount of money.24

In some cases, it can be observed in judicial practice that the criminal procedure starts with a suspicion of an act of terrorism, but later the crime is classified as a milder offense during the investigation. In one case, the perpetrator said on a mobile phone that he will “set off an explosion tonight”. This statement was overheard by the person traveling with him in the elevator, and because the perpetrator was carrying a bag of fertilizer and another bag packed with colored wires, he reported it in the police station. Although several other materials were found in the apartment of the perpetrator, the act was ultimately classified as an “engagement in preparations for Public Endangerment” and then as a “pyrotechnic misdemeanor”. However, from the electronic correspondence of the suspect it became obvious that he wanted to cause a blast at a mass event. Despite the fact that its purpose was not explored, the intent of the intimidation is obvious.25

Based on the available sources of the legal literature, it can be stated that a small number of terrorist offences was committed in Hungary. These offences were mainly committed based on personal motivation and/or due to a conflict situation in the domestic and social environment of the perpetrator. These crimes did not have serious consequences in relation to terrorist offences of the international scene. There were no serious terrorist offenses resulting in the death of other persons.

There was only one case in the recent years which was connected to the international terrorism, but the perpetrators were not under the age of 18 either. Viktor F. was 25 years old, Dániel Sz. was 21 years old, they were sentenced by the court of first instance in March 2018. The former was sentenced for the engagement of committing an act of terrorism in a terrorist group, while the latter was held responsible for the threatening of the commission of an Act of Terrorism. According to the facts, the younger offender asked the question of “How can we join the Islamic State?” on the website gyakorikerdesek.hu (“Frequently Asked Questions”).

Both perpetrators were uncommunicative, had few social relationships and had failed lives. Dániel Sz. was expelled from the school, had to receive regularly psychiatric treatment and spent most of his time before the computer. He visited the webpages of “al Nusra Front” and Anders Breivik. In his computer, usernames such as Breivik or Adolf Hitler were found. Although the younger perpetrator wrote down during their conversation that he does not like violence, but he found a video from his older companion and he felt it would be good to participate in such a film. On the Facebook page of Gábor Vona, the president of the Jobbik party, he introduced himself as “Hungarian Mohamed” and spoke about the reign of the Islamic State and about the possibility of joining the ISIS. He also stated that his name would become well-known soon, because he would get a truck for himself and then “the stupid people would have to run”. However, the perpetrator did not take any other substantive steps in order to join the Islamic State or to commit the


aforementioned crime. However, his companion, Viktor F., who communicated regularly with Dániel Sz. from the possibility of joining the Islamic State, travelled to Turkey with the total amount of money available in order to join the ISIS with a contact in January 2015. He travelled from Istanbul to Gaziantep because he thought he could be able to move into Syria from there. He assumed that he could contact a person named Abu Isa who was known by him through the internet and he thought he could led him to the Islamic State. However, Abu Isa person did not appear in the city and the local police arrested the “seemingly homeless” young boy and he was sent back to Hungary in March 2015 after several weeks of detention.

The criminal procedure was initiated by Gábor Vona. At the court hearing, Dániel Sz. explained that he wanted to seek new life by joining the ISIS because he wanted something better.

Viktor F., who was 25 years old, has a similar background. He lives with his mother, had attempted suicide twice and spent several months in the psychiatry. At the time of the commission of the criminal offence he was in a bad mental state, he felt that he had to break out of his hopeless and lonely situation and he wanted to belong to a community. For this purpose, he found the Islamic community appropriate. Though he was interested in the religion itself, he was particularly impressed by the video collection “Flames of War”. His relationship with his mother is not particularly close and he suffers from bipolar manic depression. He also spent a lot of time on the computer. His parents are divorced. The depth of the relationship with his parents is well illustrated by the fact that the disappearance for two months of Viktor F., who has never worked and has almost never left home, was not strange for his mother.

Although the criminal procedure is still in progress, it can be concluded according to the data that the background of this case was mainly loneliness, isolation, failure, dysfunctional family relations and the psychological problems of the two young perpetrators rather than political or religious commitment or radicalization.26

IC. Description of the global political approach/trend and legislative focus in response to terrorism in the country. What are the main policies and strategies implemented?

Hungary condemns all form of national and international terrorism. Hungary takes active and effective steps against terrorism.

Hungarian legislation against terrorism can be found at several levels:

• The Fundamental Law of Hungary contains regulation in connection with the special legal order in case of a terror threat or a terrorist attacks
• Criminal law regulations in connection with terrorism can be found in the Hungarian Criminal Code\textsuperscript{27} and the Hungarian Criminal Procedure Code\textsuperscript{28}
• Besides the CC and the CPC, there are several other legal acts which contain preventive or restrictive measures against terrorism (See further Point 2D-2E and 3A)
• There are other Government Decisions and Government Decrees which determine the strategic objectives against terrorism (See further Point 2D)

Hungary also takes part in the international fight and cooperation against terrorism. Therefore, Hungary has undertaken several international obligations and ratified several international treaties relating to the effective fight against terrorism. Among these international conventions ratified by Hungary, the most important are the following:

• Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963 (Law decree No. 24 of 1971)
• Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970 (Law decree No. 8 of 1972)
• Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 (Law decree No. 17 of 1973)
• Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980 (Law decree No. 8 of 1987)

\textsuperscript{27} Act C of 2012 on the Criminal Code (hereinafter: CC).
\textsuperscript{28} Act XIX of 1998 on the Criminal Proceedings (hereinafter: CPC).
• Convention between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross border cooperation, particularly in combating terrorism, cross border crime and illegal migration (Act CXII of 2007).

As Hungary is committed to the fight against terrorism, several bilateral agreements have been concluded with other states on co-operation to fight against terrorism, organized crime and illicit trafficking of drugs in the last decade. Among others, Hungary has bilateral agreements in this field with Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cyprus, the Czech Republic, Egypt, Estonia, France, Greece, the United Kingdom, the United States, Ukraine, Ireland, Israel, Jordan, Kazakhstan, Kuwait, Poland, Latvia, Lithuania, Italy, Malta, Morocco, the Netherlands, Romania, Russia, Slovenia, Slovakia, South-Africa, Switzerland, Serbia, Spain, Sweden, Turkey, Tunisia and Vietnam.29

Besides its international obligations, it also should be mentioned that the legal regulation of Hungary also complies with the EU law and implements the provisions of the relevant EU legal act against terrorism. Among these EU legal acts, Framework Decisions No. 2002/475/JHA30 and No. 2008/919/JHA31 as well as the Directive No. 2017/54132 has to be emphasized. It also has to be mentioned that terrorism is one of the ten so-called eurocrimes, i.e. a particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis, in connection with which the European Parliament and the Council is entitled to, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions.33

Therefore, it can be stated that the Hungarian counter-terrorism legislation is heavily influenced by the obligation resulting from international and EU law.

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29 See: https://rm.coe.int/1680641011 (28.03.2018.).
33 Article 83(1) TFEU.
ID. General status of extremist criminality concerning juveniles (under 18). Number of cases connected to terrorism and/or violent extremism

In the connection with juvenile offenders, acts of terrorism or other terrorism-related offences have not yet been committed according to official statistics.  

To represent the overall criminal situation of Hungary, the first figure contains data from 1965, which is the beginning of the criminal statistical data service (ERÜBS/ENYÜBS). The figure shows, that the most important change in criminal activity was in connection with the political, economical, social change in 1989/1990. The rate of registered (known) crime was increasing, its peak reached in 1998. From this year the number of the registered crimes started to decrease in connection with the strict criminal policy, the demographic changes and the new Criminal Code as well. Besides the crimes, the number of criminally responsible offenders was increasing in this period as well, but their number is significantly below than the number of criminal offenses.

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34 The sources of statistical data, graphics and tables are from the criminal statistical data service (ERÜBS, ENYÜBS) and the Judicial Statistic.

Examining the number of known perpetrators, regardless of whether they are criminally responsible or not, we can conclude that their number has declined steadily in the recent years.

The predominance of male offenders can still be identified. Among the minor offenders, the crime rate of boys is higher too. The age-structure reflects the demographic processes.

In the examined last 10 years the number of perpetrators between the ages 0-13 decreased by 51 %, the number of perpetrators between the ages 14-17 decreased by 31 %. The ratio of decrease among the convicted juvenile is 26 %.
It is interesting, that the ratio of decrease for juvenile girls is far below the rate experienced by boys. (9487»»6311 vs. 1570»»1364)

Among all crimes, crimes against property play the most important role (2007: 57%; 2016: 52%); followed by traffic crimes.

The most “common” offence is theft (2007: 41%; 2016: 32%). The damage caused by the increase of crimes against property is a serious problem. Already in 2007 the damage was 117,1 billion Hungarian forints caused by property offences, and only a small part of the loss amount was compensated (7.2 milliard Hungarian forint = 6.1%).

The rates of homicide, sexual violence, and particularly robbery decreased, but the number of bodily harm and public nuisance offences increased by 1.4% and 22%.
Among the criminality, the crime offences against health – in connection with the number of misuse of narcotic drugs – and the corruption crimes decreased (thanks to stricter prosecution).
The judgements and the structure of convicted persons reflect the changes in crime.

The structure of juvenile criminality has not changed significantly in recent decades. The largest part of crimes are crimes against property; the most popular offences are theft, but among the juveniles, car theft and the arbitrary seizure of a vehicle exist, too. Among the violent crimes, vandalism (public nuisance) is the most common offence among minors (the number of perpetrators, who committed the relevant crimes in 2017: 604 theft, 244 vandalism (age 0-13); 2389 theft, 1461 vandalism (age 14-17)).

The principal characteristics of child-offenders (between 0 and 13) are the following:

- approximately 85-90% of the offenders are boys;
- a significant part of these boys are at risk due to their own families or their own detrimental social situation;
- almost 75% of the offenders live in full families (a large percentage of parents works as ancillary staff, unskilled workers, skilled workers or are unemployed).

The typical Hungarian juvenile offender (14-17) has the following characteristics:

- the majority of the offenders are boys;
- the crime usually is committed after the age of 17;
- more than 50% of the juveniles finished elementary school; the rate of the unemployed or (financially) dependent juvenile-perpetrators decreased during this time;
- a significant part of the young offenders are at risk due to their own family or their own detrimental social situation;
- the majority of these offenders live in whole families (a large percentage of parents work as ancillary staff, unskilled workers or skilled workers, unemployed or pensioners);
- among the subjective causes for the crime the intention to achieve money is the first. Aggression comes second, wrong estimations about the elements of the offence are the third and the love of adventures is at the fourth place. Among the objective causes

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the bad influence of the peer-group is at the first place. This is followed by temporary financial problems, low incomes and family-problems.

According to the characteristics of Hungarian criminality the data reflects a different picture to that at the international level of terrorism and extremism. International research found that the most typical psychiatric disorder of a terrorist is paranoia. Six basic paranoid clinical picture have been identified as examples of various terrorists: distrust, dedication, megalomania, hatred and fear of loss of autonomy, projection and obsession. Probably the development of personality structure of a terrorist is influenced by mental and social factors, and its dominant element is dedicated idealism or fanaticism. The characteristics of the Hungarian adult perpetrators of acts of terrorism are different.

2. National legislation in the counter-terrorism context

2A. Evolution of legislation in the area of counter-terrorism

The criminal offence of Acts of Terrorism has been criminalized in Hungary since the entry into force of the Criminal Code of 1978. The offence in the previous CC was modified several times. The most important modification was the Act II of 2003, which could be regarded as a counter-step against the terrorist attack of the 9th September 2001.

Section 261

(1) The person who deprives another person of his personal freedom, or seizes considerable material goods, and makes dependent the release of the person or the leaving in undamaged state, or returning, of the goods on fulfilment of a demand addressed to a state organ or social organization, commits a felony, and shall be punishable with imprisonment from five years to fifteen years.

(2) The punishment shall be imprisonment from ten years to fifteen years or life imprisonment, if the act of terrorism is committed

   a) causing death or an especially grave disadvantage,

   b) in war-time.

(3) The person who perpetrates preparation for an act of terrorism, shall be punishable for a felony with imprisonment from one year to five years.

(4) The person who credibly obtains intelligence suggesting that the perpetration of an act of terrorism is being prepared, and fails to report that to the authorities as soon as he can, commits a felony, and shall be punishable with imprisonment of up to three years.

(5) The punishment of the person who abandons an act of terrorism before any grave consequence has arisen therefrom, may be mitigated without limitation.

According to the modification the new text of the criminal offence is the following:

Section 261

(1) Any person who commits a violent crime against one of the persons referred to in Subsection (9) or commits a crime that endangers the public or involves the use of a firearm in order to

   a) coerce a government agency, another state or an international body into doing, not doing or countenancing something,

   b) intimidate the general public,

   c) conspire to change or disrupt the constitutional, economic or social order of another state, or to disrupt the operation of an international organization,

   is guilty of a felony punishable by ten to fifteen years’ imprisonment or life imprisonment.

(2) Any person who seizes considerable assets or property for the purpose defined in Paragraph a) and makes demands to government agencies or non-governmental organizations in exchange for refraining
The current effective Hungarian Criminal Code (hereinafter: CC) intended to make the criminal offence more transparent, according to the of the Ministry’s reasoning.

In creating the criminal offence, the Hungarian legislator paid special attention to ensuring compliance with the relevant international documents and EU legal acts. The criminal offence of Act of Terrorism was heavily influence by the international obligations.

The last modification of the terrorism-offences in the Criminal Code was made with Act XXXIX of 2017 and entered into force on the 1st January 2018. This modification implemented the provisions into the Hungarian legal system and significantly broadens the scale of the terrorism-related offences.

2B. National legislation connected to terrorism and/or violent extremism issues implemented in the country

According to the current Hungarian Criminal Code, criminal offences related to terrorism can be found in Chapter XXX which regulates the criminal offences against public security. In this chapter, four different criminal offences are regulated in connection from harming or injuring said assets and property or for returning them shall be punishable according to Subsection (1).

(3) The punishment of any person who
a) abandons commission of the criminal act defined under Subsections (1) and (2) before any grave consequences are able to materialize and
b) confesses his conduct to the authorities
in such a manner as to cooperate with the authorities to prevent or mitigate the consequences of such criminal act, apprehend other coactors, and prevent other criminal acts may be reduced in any extent.

(4) Any person engaged in plotting or making preparations for any of the criminal acts defined under Subsections (1) and (2) is guilty of a felony and shall be punished by five to ten years’ imprisonment.

(5) Any person who instigates, suggests, offers, joins or collaborates in the commission of any of the criminal acts defined under Subsections (1) and (2) in a terrorist group or any person who is involved in aiding and abetting such criminal conduct by providing any of the means intended for use in such activities or by providing or raising funds to finance the activities or support the terrorist group in any other form is guilty of a felony and shall be punished by five to fifteen years’ imprisonment.

(6) The perpetrator of a criminal act defined in Subsection (5) shall avoid punishment if he confesses the act to the authorities before they become aware of it and reveals the circumstances of the criminal act.

(7) Any person threatening to commit the crimes specified in Subsections (1) and (2) is guilty of a felony and shall be punished by two to eight years’ imprisonment.

(8) Any person who is in possession of reliable information concerning plans for a terrorist act and fails to report it to the authorities at his earliest convenience is guilty of a felony and shall be punished by up to three years’ imprisonment.

(9) For the purposes of this Section
a) ‘violent crime against a person and crime of public endangerment that involves the use of firearms’ shall mean homicide [Subsections (1) and (2) of Section 166], battery [Subsections (1)-(5) of Section 170], willful malpractice [Subsection (3) of Section 171], violation of personal freedom (Section 175), kidnapping (Section 175/A), crime against the safety of traffic [Subsections (1) and (2) of Section 184], endangering railway, air or water traffic [Subsections (1) and (2) of Section 185], violence against public officials (Section 229), violence against persons performing public duties (Section 230), violence against a supporter of a public official (Section 231), violence against a person under international protection (Section 232), public endangerment [Subsections (1)-(3) of Section 259], interference with public utilities [Subsections (1) and (2) of Section 260], seizure of an aircraft, any means of railway, water or road transport or any means of freight transport (Section 262), criminal misuse of explosives or explosive devices (Section 263), criminal misuse of firearms or ammunition [Subsections (1)-(3) of Section 263/A], arms smuggling (Section 263/B), criminal misuse of radioactive materials [Subsections (1)-(3) of Section 264], criminal misuse of weapons prohibited by treaty [Subsections (1)-(3) of Section 264/C], crimes against computer systems and computer data (Section 300/C), vandalism (Section 324) and robbery (Section 321),
b) ‘terrorist group’ shall mean a group consisting of three or more persons operating in accord for an extended period of time whose aim is to commit the crimes defined in Subsections (1) and (2).
with terrorism. There are the following: Acts of Terrorism, Failure to Report a Terrorist Act, Terrorist Financing, and Unlawful Seizure of a Vehicle. Furthermore, Chapter XXXII (criminal offences against public peace) also contains a criminal offence in connection with terrorism, namely the Incitement to War.

**a) Acts of Terrorism**

The so-called “Acts of Terrorism” is regulated in Section 314-316 of the CC, as follows:

**Section 314**

(1) Any person who commits a violent crime against the persons referred to in Subsection (4) or commits a criminal offense that endangers the public or involves the use of arms in order to:
   a) coerce a government agency, another State or an international body into doing, not doing or countenancing something;
   b) intimidate the general public;
   c) conspire to change or disrupt the constitutional, economic or social order of another State, or to disrupt the operation of an international organization;

   is guilty of a felony punishable by imprisonment between ten to twenty years or life imprisonment.

(2) Any person who:
   a) for the purpose defined in Paragraph a) of Subsection (1), seizes considerable assets or property and makes demands to government agencies or international organizations in exchange for refraining from harming or injuring said assets and property or for returning them, or
   b) organizes a terrorist group,

   shall be punishable according to Subsection (1).

(3) The punishment of any person who:
   a) abandons the commission of the terrorist act defined under Subsection (1) or (2) before any grave consequences have resulted therefrom; and
   b) confesses his conduct to the authorities;

   in such a manner as to cooperate with the authorities to prevent or mitigate the consequences of such criminal act, apprehend other coactors, and prevent other criminal acts may be reduced without limitation.

(4) For the purposes of this Section, violent crime against the person, or criminal offense that endangers the public or involves the use of arms shall include:
   a) homicide [Subsections (1)-(2) of Section 160], battery [Subsections (2)-(6) and (8) of Section 164], professional misconduct with intent [Subsection (3) of Section 165];
   b) kidnapping [Subsections (1)-(4) of Section 190], violation of personal freedom (Section 194);
   c) offenses against transport security [Subsections (1)-(2) of Section 232], endangerment of railway, air or water transport systems [Subsections (1)-(2) of Section 233];
   d) misappropriation of radioactive materials [Subsections (1)-(2) of Section 250];
   e) assault on a public official [Subsections (1)-(5) of Section 310], assault on a person entrusted with public functions (Section 311), assault on a person aiding a public official or a person entrusted with public functions (Section 312), assault on a person under
international protection [Subsection (1) of Section 313];
f) unlawful seizure of a vehicle [Subsections (1)-(2) of Section 320], public endangerment [Subsections (1)-(3) of Section 322], interference with works of public concern [Subsections (1)-(3) of Section 323], criminal offenses with explosives or blasting agents [Subsections (1)-(2) of Section 324], criminal offenses with firearms and ammunition [Subsections (1)-(3) of Section 325];
g) criminal offenses with weapons prohibited by international convention [Subsections (1)-(5) of Section 326], criminal offenses with military items and services [Subsections (1)-(3) of Section 329], criminal offenses with dual-use items [Subsections (1)-(2) of Section 330];
h) robbery [Subsections (1)-(4) of Section 365] and vandalism [Subsections (1)-(6) of Section 371];
i) breach of information system or data [Subsections (1)-(4) of Section 423].

Section 315

(1) Any person who instigates, suggests, offers, joins or collaborates in the commission of any of the criminal acts defined in Subsection (1) or (2) of Section 314 or any person who is involved in aiding and abetting such criminal conduct by providing any of the means intended for use in such activities is guilty of a felony punishable by imprisonment between two to eight years.
(2) Any person who is engaged in the conduct referred to in Subsection (1) or in the commission of any of the criminal acts defined in Subsection (1) or (2) of Section 314 in a terrorist group, is punishable by imprisonment between five to ten years.
(3) The perpetrator of a criminal act defined in Subsection (1) or (2) shall not be prosecuted if he confesses the act to the authorities first hand and unveils the circumstances of the criminal act.

Section 316

Any person threatening to commit a terrorist act is guilty of a felony punishable by imprisonment between two to eight years.

Section 316/A

(1) Any person entering or leaving, or travelling through the territory of Hungary:
a) with intent to instigate, suggest, offer or undertake, or to join or collaborate in the commission of any of the criminal acts defined in Subsection (1) or (2) of Section 314 or who is involved in aiding and abetting such criminal conduct by providing any of the means intended for use in such activities, and/or
b) with intent to join a terrorist group,
is guilty of a felony punishable by imprisonment between two to eight years.
(2) Any person who makes the travel arrangements referred to in Subsection (1), or who provides or collects funds for such travel arrangements shall be punishable in accordance with Subsection (1).

Therefore, the CC regulates Acts of Terrorism in four different sections.
1. The criminal offence regulated in Section 314 of the CC contains three different conducts.

According to the first case, Acts of Terrorism can be committed when the perpetrator commits violent crime against natural persons, a criminal offence that endangers the public or involves the use of arms with a special terrorist intent. In this case the criminal offender commits a so-called “common criminal offence”, which becomes a terrorist act due to the special terrorist intent. The types of criminal offences which can be the basis of act of terrorism are listed in Subsection 4 of Section 314 CC:

- homicide (Subsections (1)-(2) of Section 160)
- battery (Subsections (2)-(6) and (8) of Section 164)
- professional misconduct with intent (Subsection (3) of Section 165)
- kidnapping (Subsections (1)-(4) of Section 190)
- violation of personal freedom (Section 194)
- offences against transport security (Subsections (1)-(2) of Section 232)
- endangerment of railway, air or water transport systems (Subsections (1)-(2) of Section 233)
- misappropriation of radioactive materials (Subsections (1)-(2) of Section 250)
- assault on a public official (Subsections (1)-(5) of Section 310)
- assault on a person entrusted with public functions (Section 311)
- assault on a person aiding a public official or a person entrusted with public functions (Section 312)
- assault on a person under international protection (Subsection (1) of Section 313)
- unlawful seizure of a vehicle (Subsections (1)-(2) of Section 320)
- public endangerment (Subsections (1)-(3) of Section 322)
- interference with works of public concern (Subsections (1)-(3) of Section 323)
- criminal offenses with explosives or blasting agents (Subsections (1)-(2) of Section 324)
- criminal offenses with firearms and ammunition (Subsections (1)-(3) of Section 325)
- criminal offenses with weapons prohibited by international convention (Subsections (1)-(5) of Section 326)
- criminal offenses with military items and services (Subsections (1)-(3) of Section 329)
- criminal offenses with dual-use items (Subsections (1)-(2) of Section 330)
- robbery (Subsections (1)-(4) of Section 365)
- vandalism (Subsections (1)-(6) of Section 371)
- breach of information system or data (Subsections (1)-(4) of Section 423).

The CC lists three alternative terrorist intents which is required for the fulfilment of the act of terrorism. These are the following:

a. The coercion of a government agency, another State or an international body into doing, not doing or countenancing something.

b. Intimidation of the general public. In this case, the aim of the perpetrator of a terrorist

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act is to create fear and alarm among the citizens. In many cases, the perpetrators of modern terrorist acts do not formulate specific demands, do not want to gain material or other benefits, but aim to terrorise the population. This could result in the destabilization and the failure of the existing government or of the constitutional system.\footnote{Sántha Ferenc: A közbiztonság elleni bűncselekmények. In: Görgényi Ilona – Gula József – Horváth Tibor – Jacsó Judit – Lévay Miklós – Sántha Ferenc – Váradi Erika: Magyar Büntetőjog Különös Rész. Wolters Kluwer Kft., Budapest, 2013. p. 426.}

c. Conspiration to change or disrupt the constitutional, economic or social order of another State, or to disrupt the operation of an international organization.

It should be mentioned that, unlike the provision of the EU-Directive\footnote{Article 3 of Directive (EU) 2017/541.}, the Hungarian criminal law does not require the act of terrorism to seriously damage a country or an international organization. Therefore, it must be stated that Hungarian law provides stricter rules than the EU-Directive.\footnote{See in details: Sántha Ferenc: A terrorcselekmény és a terrorizmushoz kapcsolódó egyéb bűncselekmények. In: Farkas Ákos (szerk.): Fejezetek az európai büntetőjogból. Bíbor Kiadó, Miskolc, 2017. pp. 66-68.} However, it does not mean that Hungary breached its obligations to properly implement the EU law, because the EU-Directive only prescribes minimum rules, which means that the Member States are entitled to introduce or maintain stricter regulations than the provisions of the Directive.\footnote{Borgers, Matthias J.: Framework Decision on combating terrorism: two questions on the definition of terrorist offences. New Journal of European Criminal Law, Issue 1, 2012. p. 73., Udvarhelyi Bence: Büntető anyagi jogi jogharmonizáció az Európai Unióban. Publicationes Universitatis Miskolcensis. Sectio Juridica et Politica, Tomus XXXI. 2013. p. 309.}

In the case of the second possible behaviour, the perpetrator seizes considerable assets or property (e.g. airports, railway stations, factories, schools, theaters, paintings, sculptures etc.) and makes demands to government agencies or international organizations in exchange for refraining from harming or injuring said assets and property or for returning them. The demand can be regarded as a strong call to do, not to do or to countenance something by the addressee, which may be either a government agency (any state agency according to the Fundamental Law of Hungary) or international organization (governmental or non-governmental organizations as well). Essentially, it is a threat, because it makes the offender responsible for returning the property or leaving it intact.\footnote{Gál István László – Dávid Ferenc: A terrorizmus büntetőjogi oldala: a terrorcselekmény és terrorizmus finanszírozása. Belügyi Szemle, 2015/7-8. p. 80., Sántha Ferenc: A közbiztonság elleni bűncselekmények. In: Görgényi Ilona – Gula József – Horváth Tibor – Jacsó Judit – Lévay Miklós – Sántha Ferenc – Váradi Erika: Magyar Büntetőjog Különös Rész. Wolters Kluwer Kft., Budapest, 2013. pp. 426-427.}

Terrorist intent (point a) is also required.

The third type of act of terrorism under Section 314 of the CC is the organization of a terrorist group with the intent to coerce a government agency, another State or an international body into doing, not doing or countenancing something. In this case the legislator does not criminalize the commission of the act of terrorism within the framework of a terrorist group, but the mere organization of a terrorist group.\footnote{See further: Bartkó Róbert: Változások a hazai terrorizmus elleni büntetőjogi küzdelemben. Magyar Jog, 2016/9. pp. 537-538.}
definition of a criminal organization.\textsuperscript{47} According to the CC, a terrorist group shall mean a group consisting of three or more persons operating in accord for an extended period of time whose aim is to commit acts of terrorism.\textsuperscript{48}

However, it should be mentioned that the Hungarian criminal law does not contain special provisions relating to the leader of the terrorist group. Therefore, the Hungarian regulation is not completely in accordance with the relevant EU legal acts which distinguish between the direction of and the participation in a terrorist group.\textsuperscript{49}

2. \textit{Section 315 of the CC} criminalize perpetrators who instigate, suggest, offer, join or collaborate in the commission of any of the criminal acts defined in Subsection (1) or (2) of Section 314 or any person who is involved in aiding and abetting such criminal conduct by providing any of the means intended for use in such activities. These are so-called “preparatory acts”\textsuperscript{50} relating to the commission of an act of terrorism, which are also punishable according to the Hungarian Criminal Code. The punishment is higher if the aforementioned conducts are connected with a terrorist group.

3. According to \textit{Section 316 of the CC}, an act of terrorism includes also threats to commit a terrorist act. A threat is a concrete and serious statement addressed to another person with which the perpetrator clearly states that he or another person intends to commit an act of terrorism.\textsuperscript{51} In this case, the Criminal Code criminalizes conduct as well, when act of terrorism is still not committed but the perpetrator only threatens to commit a terrorist act. However, the criminalization of this conduct obviously raised the question of the violation of the principle of the rule of law, as it can be regarded as the bringing forward of the criminal liability.\textsuperscript{52}

4. \textit{Section 316/A of the CC}, which was included into the provisions of the CC with Act XXXIX of 2017 entered into force on the 1\textsuperscript{st} January 2018, also punishes persons who enter, leave or travel through the territory of Hungary with intent to instigate, suggest, offer or undertake, or to join or collaborate in the commission of any of the criminal acts defined in Subsection (1) or (2) of Section 314 or who is involved in aiding and abetting such criminal conduct by providing any of the means intended for use in such activities, and/or with intent to join a terrorist group. It is also punishable to arrange such travel or

\textsuperscript{47} According to Point 1 of Subsection 1 of Section 459 of the CC, criminal organization shall mean when a group of three or more persons collaborate in the long term to deliberately engage in an organized fashion in criminal acts, which are punishable with five years of imprisonment or more.

\textsuperscript{48} Section 319 of the CC.


to provide or collect funds for such travel arrangements.

5. Acts of terrorism can be committed by anyone who meets the general requirements of perpetration. According to the Hungarian Criminal Code, a criminal offence can be committed by a natural person, who reaches the minimum age of criminal responsibility and who is able to understand the nature and consequences of his acts (see further: point: 2C).

6. Acts of terrorism can only be committed intentionally. The criminal offense is committed with intent if the person conceives a plan to achieve a certain result, or acquiesces to the consequences of his conduct. If the act of terrorism is committed negligently, the perpetrator shall not be held liable and be punished for this offence.

7. According to the Hungarian Criminal Code, acts of terrorism under Section 314 can be punished with imprisonment between ten to twenty years or life imprisonment. Criminal offences in Section 315, 316 and 316/A are punishable by imprisonment between two to eight years. If criminal offences in Subsection (1) or (2) of Section 314 and in Subsection (1) of Section 315 were committed in a terrorist group, the punishment can be imprisonment between five to ten years.

As can be seen, in cases of the most serious forms of act of terrorism, the most serious punishment, life imprisonment can also be handed down to the perpetrator. However, according to the provisions of the General Part of the Criminal Code, only persons over the age of twenty at the time of commission of the criminal act shall be sentenced to life imprisonment. In the event a sentence of life imprisonment is imposed, the court shall specify the earliest date of eligibility for parole, or shall preclude any eligibility for parole. In the event a sentence of life imprisonment is imposed, the court may deny the possibility of parole in connection with criminal offences listed exhaustively in the CC, among which the act of terrorism also can be found. Therefore, the Court is entitled to deny the possibility of parole in case of act of terrorism. The possibility of parole has to be denied if the perpetrator is a repeat offender with a history of violence, or committed the criminal offense in the framework of a criminal organization. If the court has not precluded eligibility for parole with a sentence of life imprisonment, the earliest date of release on parole shall be after serving twenty-five years, or at least forty years.

A sentence of imprisonment imposed shall be carried out in a penitentiary if imposed for term of three years or more for acts of terrorism.

8. Subsection 3 of Section 314 of the CC contains a special provision, which enables the reduction of the punishment of the perpetrator without limitation, if he or she:

52 Section 7 of the CC.
53 Section 314 of the CC.
54 Subsection 1 of Section 42 of the CC.
55 Sections 42-44 of the CC.
56 Subsection (3) of Section 37 of the CC.
57 According to Subsection 5 of Section 82 of the CC, the possibility of the unlimited mitigation means that the minimum sentence for any type of punishment may be imposed.
• abandons the commission of the terrorist act before any grave consequences have resulted therefrom; and
• confesses his conduct to the authorities in such a manner as to cooperate with the authorities to prevent or mitigate the consequences of such criminal act, apprehend other coactors, and prevent other criminal acts.

Furthermore, according to Subsection 3 of Section 315 of the CC, the perpetrator of a criminal act defined in Subsection (1) or (2) of Section 315 shall not be prosecuted if he or she confesses the act to the authorities first hand and unveils the circumstances of the criminal act.

The reason of this possibility is that there is a greater social interest to prevent the commission of act of terrorism or to mitigate its consequences than to punish the perpetrator of the criminal offence.58

b) Failure to Report a Terrorist Act

Section 317

Any person who has positive knowledge concerning plans for a terrorist act and fails to promptly report that to the authorities is guilty of a felony punishable by imprisonment not exceeding three years.

The Hungarian Criminal Code punishes not only the perpetrators of act of terrorism, but other individuals as well who knows that a terrorist act is planned and fails to report it to the relevant authority. This criminal offence is an omission; the perpetrator fails to report the plans for a terrorist act to the authorities. The punishment for this crime can be imprisonment not exceeding three years. Even the relatives of the perpetrator of the terrorist act can be held liable for the failure to report a terrorist act.59

c) Terrorist Financing

Section 318

(1) Any person who:
a) provides or collects funds with the intention that they should be used in order to carry out an act of terrorism,
b) provides material assistance to a person who is making preparations to commit a terrorist act or who committed a terrorist act, or to a third party on his behest, or
c) provides or collects funds with intent to support the persons provided for in Paragraph

b), is guilty of a felony punishable by imprisonment between two to eight years.

(2) Any person who commits the criminal offense referred to in Subsection (1) in order to carry out an act of terrorism in a terrorist group, or on behalf of any member of a terrorist group, or supports the activities of the terrorist group in any other form or provides or collects funds with intent to support the terrorist group is punishable by imprisonment between five to ten years.

Section 318/A

(1) Any person who:
a) provides or collects funds with the intention that they should be used in order to carry out a terrorism-type offense,
b) provides material assistance to a person who is making preparations to commit a terrorism-type offense or who committed a terrorism-type offense, or to a third party on his behest, or
c) provides or collects funds with intent to support the persons provided for in Paragraph b), is guilty of a felony punishable by imprisonment not exceeding three years.

(2) In the application of Subsection (1), the following shall be construed a terrorism-type offense:
a) homicide [Subsection (1) of Section 160, Subsection (2) of Section 160, if committed in an airport, or on board an aircraft involved in international civil aviation, or on a ship at sea, or if the victim is a person under international protection];
b) battery [Section 164, if committed in an airport, or on board an aircraft involved in international civil aviation, or on a ship at sea, or if the victim is a person under international protection];
c) kidnapping [Subsections (1)-(4) of Section 190];
d) offenses against transport security (Section 232, if committed targeting an aircraft or a ship at sea);
e) misappropriation of radioactive materials (Section 250);
f) destruction (Section 257);
g) assault on a person under international protection (Section 313);
h) unlawful seizure of a vehicle (Section 320);
i) public endangerment [Subsections (1)-(3) of Section 322];
j) interference with works of public concern (Section 323);
k) criminal offenses with explosives or blasting agents (Section 324, if committed in works of public concern, or inside a public building or structure);
l) criminal offenses with firearms and ammunition (Section 325, if committed in works of public concern, or inside a public building or structure).

Section 318/B

For the purposes of Sections 318 and 318/A ‘material assistance’ shall mean the assets specified in Point 1 of Article 1 of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, including legal documents and instruments in any form.
The Hungarian Criminal Code criminalises terrorist financing under a separate criminal offence.

1. According to Section 318 of the CC, terrorist financing can be committed in three different ways:

   a. the provision or collection of funds with the intention that they should be used in order to carry out an act of terrorism,
   b. the provision of material assistance to a person who is making preparations to commit a terrorist act or who committed a terrorist act, or to a third party on his behest, or
   c. the provision or collection of funds with intent to support the persons provided for in Paragraph b).

In case of terrorist financing the provision of funds means any type of direct or indirect transfer of funds or material assistance as result of which it becomes the property of another person who aims to use it in order to commit an act of terrorism. It is irrelevant whether the act of terrorism is committed or not. The collection of funds means the accumulation of such funds with the intent that they will be used for act of terrorism. In this case the funds do not pass out of the perpetrator’s possession.60

In connection with Point b) of Section 318, Criminal Code also gives the definition of material assistance, mainly referring to the relevant EU documents. Under the provisions of the CC, for the purposes of Sections 318 and 318/A ‘material assistance’ shall mean the assets specified in Point 1 of Article 1 of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, including legal documents and instruments in any form.61 According to the aforementioned Council Regulation62, funds, other financial assets and economic resources means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers’ cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.

According to Subsection 1 of Section 318 terrorist financing is punishable by imprisonment between five to ten years. However, according to Subsection 2 of Section 318, if the aforementioned conducts were committed in order to carry out an act of terrorism in a terrorist group, or on behalf of any member of a terrorist group, or supports the activities of the terrorist group in any other form or provides or collects funds with intent to support the terrorist group, the punishment can be imprisonment between five to ten years.

2. Since 2018, according to Section 318/A of the CC, terrorist financing is punishable if the aforementioned conducts are related not only to act of terrorism, but to the so-called

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61 Section 318/A of the CC.
“terrorism-type offences”. According to Subsection 2 of the Section 318/A of the CC, the following criminal offences has to be construed a terrorism-type offense:

- homicide (Subsection (1) of Section 160, Subsection (2) of Section 160, if committed in an airport, or on board an aircraft involved in international civil aviation, or on a ship at sea, or if the victim is a person under international protection)
- battery (Section 164, if committed in an airport, or on board an aircraft involved in international civil aviation, or on a ship at sea, or if the victim is a person under international protection)
- kidnapping (Subsections (1)-(4) of Section 190)
- offenses against transport security (Section 232, if committed targeting an aircraft or a ship at sea)
- misappropriation of radioactive materials (Section 250)
- destruction (Section 257)
- assault on a person under international protection (Section 313)
- unlawful seizure of a vehicle (Section 320)
- public endangerment (Subsections (1)-(3) of Section 322)
- interference with works of public concern (Section 323)
- criminal offenses with explosives or blasting agents (Section 324, if committed in works of public concern, or inside a public building or structure)
- criminal offenses with firearms and ammunition (Section 325, if committed in works of public concern, or inside a public building or structure).

The Criminal Code criminalises the following offences, where the perpetrator:

a. provides or collects funds with the intention that they should be used in order to carry out a terrorism-type offense,

b. provides material assistance to a person who is making preparations to commit a terrorism-type offense or who committed a terrorism-type offense, or to a third party on his behest, or

c. provides or collects funds with intent to support the persons provided for in Paragraph b).

The criminal conducts, as it can be seen, are the same as in Section 318 of the CC, although the sanctions are milder. In these cases, the perpetrators can be punished by imprisonment not exceeding three years.

**d) Unlawful Seizure of a Vehicle**

**Section 320**

(1) Any person who seizes control of an aircraft, any means of public transportation or any means of freight transport by force or threat of force, or by way of disabling another
person by rendering him unconscious or incapable of self-defence is guilty of a felony punishable by imprisonment between five to ten years.

(2) The penalty shall be imprisonment between ten to twenty years or life imprisonment, if the criminal offense results in death.

(3) Any person who engages in preparations for the unlawful seizure of a vehicle is punishable by imprisonment between two to eight years.

(4) The punishment of a person who abandons commission of the criminal act before grave consequences have resulted therefrom may be reduced without limitation.

1. Section 320 of the Criminal Code criminalises the unlawful seizure of an aircraft, any means of public transportation or any means of freight transport. This criminal offence is committed if the perpetrator seizes the control of the aforementioned vehicle. The method of perpetration is also mentioned in the CC: the seizure of the vehicle has to occur by force or threat of force, or by way of disabling another person by rendering him unconscious or incapable of self-defence. Force means a violent conduct, which can be any act of aggression and undue influence exerted on a person by the application of physical force, even if it does not result in bodily injury. A threat means - save as otherwise provided - a declaration of intention to cause considerable harm so as to make the person who is the target of the threat fearful by such a declaration. Person incapable of self-defence shall mean, among others, any person in a position or condition whereby he is temporarily or permanently rendered unable to put forth any resistance.

Subsection 3 of Section 320 of the CC also criminalises engagement in preparations for the unlawful seizure of a vehicle. According to the General Part of the CC, if it is expressly prescribed by this Act that any person who provides the means necessary for committing a criminal offense or facilitating that, and who invites, volunteers or undertakes to commit a crime, or agrees to commit a crime in league with others shall be punishable for preparation.

2. The unlawful seizure of a vehicle is punishable by imprisonment between five to ten years. The penalty shall be imprisonment between ten to twenty years or life imprisonment, if the criminal offense results in death. The perpetration can be punished by imprisonment between two to eight years.

3. Similarly to act of terrorism, the legislator provides a possibility to reduce the punishment of the perpetrator without limitation in case of this criminal offence. The condition of the reduction of the punishment is that the perpetrator abandons the commission of the criminal act before grave consequences have resulted therefrom.

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63 Point 4 of Subsection 1 of Section 459 of the CC.
64 Point 7 of Subsection 1 of Section 459 of the CC.
65 Point 29 of Subsection 1 of Section 459 of the CC.
66 Subsection 1 of Section 11 of the CC.
e) Incitement to War

Section 331

(1) Any person who before the public at large engages in incitement to war or otherwise displays war propaganda is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person who before the public at large engages in incitement to support terrorism or otherwise promotes terrorism shall be punishable in accordance with Subsection (1), insofar as the act did not result in a more serious criminal offense.

Unlike the aforementioned criminal offences, incitement to war can be found in Chapter XXXII (criminal offences against the public peace) of the CC. Subsection 2 of Section 331 of the CC criminalises any person who engages in incitement to support terrorism or otherwise promotes terrorism.

The incitement to support terrorism conceptually means the influencing of the thinking and the behaviour of other people on an emotional basis, the essence of which is the encouragement to support terrorism. The promotion of terrorism embraces every conceivable form of terrorism propaganda. The criminal offence can be implemented verbally, in writing, by means of press, radio, film and other telecommunication tools, using the internet, etc.

The criminal offence can only be committed before the public. This means on the one hand that a larger number of persons are present than whose number cannot be identified at first sight, or there is a real possibility for a larger or predetermined number of persons to become aware of the offense. On the other hand, public at large shall mean, among others, when a crime is committed through publication in the press or other media services, by way of reproduction or by means of publication on an electronic communications network.

The criminal offence is a so-called “subsidiary” criminal offence, which means that it can only be assessed insofar as the act did not result in a more serious criminal offense. The punishment for incitement to war can be imprisonment between one to five years.

2C. National legislation connected to the specific need of juveniles (under 18) suspected or accused of violent extremism or terrorism

a) Definition of minors

In the Hungarian legal system, there are several legal acts (not only criminal law acts) which contain definitions in connection with minors.

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69 Point 22 of Subsection 1 of Section 459 of the CC.
According to Subsection (1) of Section 2:10 of the Hungarian Civil Code\textsuperscript{70}, persons who have not yet reached the age of eighteen years shall be deemed minors. Married minors are considered to be of legal age. It means, according to the Civil Code, a minor becomes an adult in the case of marriage. Subsection a) of Section 5 of Act XXXI on the protection of children and guardianship administration also refers to the definition of the Civil Code.

According to Article 1 of Act LXIV of 1991 on the declaration of the Convention on the Rights of the Child, for the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

\textbf{b) Minimum age of criminal responsibility in the Hungarian Criminal Code}

1. In Hungary the minimum age of criminal responsibility is fourteen years. According to Section 16 of the CC, persons under the age of fourteen years at the time the criminal offence was committed shall be exempt from criminal responsibility. However, persons between twelve and fourteen years can also be held liable if the following to criteria are met:

a. The criminal liability of a person between twelve and fourteen years can occur in case of six criminal offences: homicide (Subsections (1)-(2) of Section 160), voluntary manslaughter (Section 161), battery (Subsection (8) of Section 164), acts of terrorism (Subsections (1)-(4) of Section 314), robbery (Subsections (1)-(4) of Section 365) and plundering (Subsections (2)-(3) of Section 366)

b. The perpetrator between twelve and fourteen years is required to have the capacity to understand the nature and consequences of his acts.

It means, that the criminal acts regulated under Section 314 of the CC can be committed by any person over twelve years, but between twelve and fourteen years it is required to examine whether the perpetrator had the capacity to understand the nature and consequences of his acts. However, terrorist acts under Sections 315 and 316 of the CC as well as the other terrorist-related criminal offences (Failure to Report a Terrorist Act, Terrorist Financing, Unlawful Seizure of a Vehicle) can only be punished if the perpetrators are over fourteen years.

Originally the CC listed only five criminal offences (homicide, voluntary manslaughter, battery, robbery and plundering) for which a person over twelve years can be held liable. Act of terrorism was included into this list with Act LXIX of 2016 entered into force on the 17th July 2016. The inclusion of the act of terrorism was justified with the fact that more and more younger people are joining terrorist groups. However, this justification raises an important question: if this justification is correct and there are younger people who join a terrorist group, why did the legislator restrict the criminalization of the juveniles between twelve and fourteen years only to Section 314 of the CC and why was it not extended to the other terrorist-related criminal offences?\textsuperscript{71}

\textsuperscript{70} Act V of 2013 on the Civil Code.

2. According to Section 105, juvenile offender means any person between the age of twelve and eighteen years at the time of committing a criminal offense. In the case of juveniles the provisions of the CC apply with the exceptions set out in Chapter XI, which enables milder provisions if the criminal offences were committed by juveniles. The CC also underlines that the principle objective of any penalty or measure imposed upon a juvenile is to positively influence the juvenile’s development to become a useful member of society, and such penalty or measure should therefore have as a primary consideration the juvenile’s guidance, education and protection.\(^\text{72}\)

c) Pre-trial detention of juveniles

The Hungarian Criminal Procedure Code (hereinafter: CPC) regulates two main types of pre-trial detention of persons suspected with committing a criminal offence: custody and preliminary arrest.

1. Taking the defendant into custody means a temporary deprivation of the defendant of his freedom. The custody of the defendant may be ordered upon a reasonable suspicion that the defendant has committed a criminal offence subject to imprisonment – thus, in particular, if the defendant is caught in the act – provided that a probable cause exists to believe that the preliminary arrest of the defendant is to follow.

The custody may last for a period of maximum 72 hours. After the lapse of this period, the defendant shall be released, unless the court has ordered his preliminary arrest. The defendant shall be released, if the court has not made a decision concerning his preliminary arrest during the period of the custody. The period of custody shall also include the time spent by the defendant in lawful detention prior to the issuance of the order for taking him into custody.\(^\text{73}\)

Custody may be ordered and terminated by the court, the prosecutor or the investigating authority. If the defendant has been taken into custody on the order of the investigating authority, it shall advise the prosecutor thereon within twenty-four hours.\(^\text{74}\)

The relative of the defendant designated by the defendant shall be notified of the warrant of custody and the place of detention within twenty-four hours; in the absence of such a relative, notification may be made to another person designated by the defendant. Children of minor age of the defendant remaining without supervision, or any other person being looked after by the defendant shall be delivered to the care of a relative or an appropriate institution. The settling arrangements for minors shall be made through the Court of Guardians, while in the case of other persons being looked after by the defendant, the notary of the local government. Actions shall be taken to secure the property and home of the defendant left unattended.\(^\text{75}\)

\(^{72}\) Section 106 of the CC.
\(^{73}\) Section 126 of the CPC.
\(^{74}\) Section 127 of the CPC.
\(^{75}\) Section 128 of the CPC.
2. Preliminary arrest means the judicial deprivation of the defendant of his freedom prior to the delivery of the final decision. The preliminary arrest of the defendant may take place in a proceeding related to a criminal offence punishable by imprisonment, and only under the following conditions:

a. the defendant has escaped, or has attempted to escape, or absconded from the court, the prosecutor or the investigating authority, or another procedure has been launched against the defendant for committing a deliberate criminal offence also punishable by imprisonment,

b. owing to the risk of an escape or hiding, or for other reasons, there is reasonable cause to believe that the presence of the defendant in procedural actions cannot be otherwise ensured,

c. there is reasonable cause to believe that if left at liberty, the defendant would frustrate, obstruct or jeopardise the evidentiary procedure, especially by means of influencing or intimidating the witnesses, or by the destruction, falsification or secretion of physical evidence or documents,

d. there is reasonable cause to believe that if left at liberty, the defendant would accomplish the attempted or planned criminal offence or commit another criminal offence punishable by imprisonment.76

The decision on ordering preliminary arrest shall fall under the competence of the court.77 Preliminary arrest ordered prior to filing the indictment may continue up to the decision of the court of first instance during the preparations for the trial but may never be longer than 1 month. Preliminary arrest may be extended by the investigating judge by 3 months on each occasion. One year after the order of preliminary arrest, it may be extended by 2 months on each occasion.78 After filing the indictment, preliminary arrest ordered or maintained by the court of first instance may continue up to the announcement of the conclusive decision made by that court. The preliminary arrest ordered or maintained by the court of first instance after the announcement of its conclusive decision, or ordered or maintained by the court of second instance may continue up to the conclusion of the procedure of second instance, furthermore ordered or maintained by the court of second instance after the announcement of its conclusive decision or ordered or maintained by the court of third instance may continue up to the conclusion of the procedure of third instance but in every case no longer than the term of imprisonment imposed by the appealable decision.79 The preliminary arrest shall be executed in a penal institution.80

If the perpetrator is a juvenile, the Criminal Procedure Code contains special requirements in connection with preliminary arrest. The preliminary arrest of a juvenile offender may only be applied if this is necessary due to special gravity of the criminal offence. The preliminary arrest of the juvenile offender shall be executed either in detention at home or in penal institution depending on his/her age. The place of preliminary arrest shall be decided upon by the court, taking into consideration the personality of the juvenile

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76 Section 129 of the CPC.
77 Subsection (1) of Section 130 of the CPC.
78 Subsection (1) of Section 131 of the CPC.
79 Subsection (4) of Section 131 of the CPC.
80 Subsection (1) of Section 135 of the CPC.
offender and the nature of the criminal offence he is charged with. During the period of
the preliminary arrest, the court may change the place of preliminary arrest at the motion
of the prosecutor, the defendant or the defence counsel. Prior to the decision during
the preparations for the trial, the decision thereon shall be adopted by the court ordering
preliminary arrest, and thereafter the court proceeding in the criminal case. After the lapse
of 2 years (or 1 year if the juvenile is under 14 years) after the commencement of the
execution of preliminary arrest ordered against a juvenile offender, the preliminary arrest
shall be terminated, unless the preliminary arrest was ordered or maintained after the
announcement of the conclusive decision, or unless a repeated procedure is in progress
in the case due to repeal. In the course of preliminary arrest, juvenile offenders shall be
separated from offenders of legal age.81

d) Criminal sanctions of juvenile offenders

The criminal sanctions which can be imposed on perpetrators committed act of terrorism
or other terrorism-related criminal offences were already discussed in Point 2B. However,
Chapter XI of the CC contains special provisions relating to criminal sanctions if the
offender is a juvenile.

According to the Criminal Code, the minimum term of imprisonment to be imposed upon
juvenile offenders shall be one month for all types of criminal acts. The maximum term of
imprisonment that may be imposed upon a juvenile offender over the age of sixteen years
at the time the crime is committed shall be:

a. ten years for a crime that carries a maximum sentence of life imprisonment;
b. five years for a crime that carries a prison term of more than five years.

The maximum term of imprisonment that may be imposed against a juvenile offender over
the age of sixteen years at the time the crime is committed shall be:

a. fifteen years for a crime that carries a maximum sentence of life imprisonment;
b. ten years for a crime that carries a prison term of more than ten years;
c. five years for a crime that carries a prison term of more than five years.82

Only persons over the age of twenty at the time of commission of the criminal act shall
be sentenced to life imprisonment.83

A sentence of imprisonment imposed shall be carried out in a juvenile detention facility
or in a juvenile jail. A sentence of imprisonment imposed shall be carried out in a juvenile
detention facility if:

a. the juvenile is sentenced to imprisonment of two years or more for a felony;
b. the juvenile is a recidivist and was sentenced to imprisonment of one year or more; or
c. the juvenile sentenced to imprisonment of one year or more and, within a period of

81 Sections 454-455 of the CPC.
82 Section 109 of the CC.
83 Subsection (1) of Section 41 of the CC.
three years prior to having committed a criminal offense intentionally, he was sentenced to confinement in a reformatory institution for an intentional criminal offense.

In other cases, a sentence of imprisonment imposed shall be carried out in a juvenile jail. As a special sanction applicable only to juveniles, the court may order placement in a reformatory institution if proper education of the juvenile can only be provided in an institution. Placement in a reformatory institution may not be ordered against a person over the age of twenty years at the time of sentencing. The duration of placement in a reformatory institution may be between one year to four years.

**e) Special provisions on criminal provision in case of juveniles**

The Criminal Procedure Code stipulates as a general rule that the proceedings against a juvenile offender shall be conducted by taking into account the characteristics of his age and in a way that promotes the respect of the juvenile offender for the laws.

As a consequence of this general principle, juveniles cannot be charged before the adult courts, but before a special juvenile court. In the first instance, the presiding judge (single judge), while in the second instance and third instance – except the Supreme Court –, a member of the panel shall be the judge designated by the president of the National Judiciary Council’s Office. At the court of first instance, one of the associate judges on the panel shall be a teacher. The powers of the prosecutor shall be exercised by the prosecutor (prosecutor for juvenile offenders) designated by a superior prosecutor. The participation of a defence counsel is obligatory.

**2D. National policy and strategies connected to the terrorism issue implemented in the country**

Following the terrorist attacks in Madrid on the 11th March 2004, the Hungarian Government reconfirmed the need for a National Action Plan to Combat Terrorism, which was first approved on the 7th May 2004. With the Government Decision, a Counter Terrorism Committee was established. The main goals of the National Action Plan included improving the exchange of intelligence and cooperation among international police forces, adopting domestic legislation to allow freezing of assets of suspected terrorists, and amending the existing provisions pertaining to the freezing of financial

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84 Section 110 of the CC.
85 Sections 120 of the CC. Further regulations in connection with this special measure can be found in Sections 121-122 of the CC.
86 Subsection (1) of Section 447 of the CPC.
87 Subsection (2)-(3) of Section 448 of the CPC.
88 Subsection (1) of Section 449 of the CPC.
89 Section 450 of the CPC.
The National Action Plan to Combat Terrorism was evaluated and updated in 2007\textsuperscript{92} and in 2015\textsuperscript{93}.

Hungary’s National Security Strategy of 2012 contains concrete elements and measures on countering terrorism, extremism, radicalization, and also extremist groups.\textsuperscript{94} According to the National Security Strategy, at the national level, Hungary needs a response from the whole of government, further capacity and institution-building measures, synchronisation of authorities, horizontal coordination, as well as the harmonisation of threat assessment, reporting, and crisis management procedures. The main focus-points are the following:


b. Prevention focuses on addressing the causes conducive to terrorism, countering extremism and radicalisation, the fight against poverty, support for good governance and the promotion of human rights, rule of law and democratic core values.

c. Elimination of terrorism, besides the detection and prevention of terrorist acts, the detection of terrorist networks and bringing terrorists to justice, concentrates on the prevention of illegal acts supplementary to, or associated with terrorism, proliferation of weapons of mass destruction and countering the financing of terrorism.

d. Among the protective measures, priority is given to potential targets of terrorism, including Hungary’s critical infrastructure, with a view to enhancing their protection and resilience.

e. Adequate preparation for and response to crisis situations require the improvement of emergency management authorities, and their coordinated cooperation. It also requires a resilient, well-prepared and well-informed society, as well as the establishment of regimes for the provision of assistance to victims of terrorism (Point 29).

Furthermore, the National Security Strategy also stresses that a security challenge is posed by extremist groups exploiting social tensions and the freedom of association, assembly and expression provided by the democratic state based on the rule of law to restrict the basic rights of others, disrupt the functioning of the constitutional institutions, or promote their anti-democratic political aspirations. The aims and activities of extremist groups pose both a national security and a constitutional risk by challenging and seeking to usurp the state’s legitimate monopoly of force.

a. In the short-term, extremists can be successfully contained through reinforcing the state’s monopoly of force.

b. Long-lasting results can be achieved by more effectively tackling those social problems that create the basis of, or support for extremism (Point 38).\textsuperscript{95}

\textsuperscript{91} https://rm.coe.int/1680641011 (28.03.2018.).
\textsuperscript{93} Government Decision 1824/2015 on the coherent implementation of counter terrorism activities of 19 November.
\textsuperscript{94} https://rm.coe.int/1680641011 (28.03.2018.).
In 2005 national terror threat levels were introduced for the first time, with a grading from A-D. Following the terrorist attacks in Paris on the 13th November, the Hungarian Government re-established a Counter Terrorism Committee. Government Decision 1824/2015 changed the terror threat levels in Hungary from A, B, C, D to 1, 2, 3, 4 in order to combat terrorism threats proportionately to risks.

a. 4 means Low level terror threat. It is ordered if there is a possibility of an act of terrorism within the EU or in any of the NATO member states and Hungary has the obligation to contribute to the prevention or cessation of a terror threat.

b. 3 means Moderate level: it is issued if an act of terrorism has been committed in any of the neighbouring countries as a result of which, the increase of terror threat is expected in Hungary as well.

c. 2 means Substantial level: it is ordered if there is concrete information available that a terrorist attack against Hungary is a strong possibility.

d. 1 means Critical level: it is issued if there has been a terrorist attack in Hungary, which has grave consequences.

The grading of a situation is ascertained by the Minister of Interior based on the advice of the Counter Terrorism Committee.

Since 2016, the Fundamental Law of Hungary also contains provisions relating to terror threat. The sixth amendment of the Fundamental Law of Hungary entered into force on the 1st July 2016, introduced a new article with the title “State of terror threat”. According to the Fundamental Law, in the event of a major and imminent threat of terrorist attacks, or following a terrorist attack, Parliament shall declare a state of emergency response to terrorism and simultaneously authorize the Government to introduce the emergency measures specified in a cardinal law. The duration of the state of emergency response to terrorism may be extended. The declaration, or extension, of this special legal order shall be subject to a majority of two-thirds of the votes of Members of Parliament in attendance. After having put forward a motion for declaring a state of emergency response to terrorism, the Government shall have power to introduce measures by way of derogation from the acts governing the administrative system and the operation of the Hungarian Armed Forces, law enforcement agencies and national security services, including measures laid down by cardinal law, and shall keep the President of the Republic and the competent standing committees of Parliament informed thereof on an ongoing basis. Such measures shall remain in force until Parliament’s decision on the declaration of a state of emergency response to terrorism, in any case for no longer than fifteen days. During a state of emergency response to terrorism, the Government may issue decrees empowered - under cardinal law - to suspend the application of certain laws or derogating from the provisions of laws, and to take other extraordinary measures. The Hungarian Armed Forces may be used during any period covered by the aforementioned measures and during a state of emergency response to terrorism if the Police and the national security services are unable to control the situation at hand. Upon termination of the state of emergency response to terrorism, the decree of the Government shall cease to have effect.

(28.03.2018).


97 https://rm.coe.int/1680641011 (28.03.2018.).

98 Article 51/A of the Fundamental Law of Hungary.
According to the Government Decision 1824/2015 the following institutions and other public authorities are involved in the counter-terrorism activities:

- Counter Terrorism Centre (CTC),
- Constitution Protection Office,
- Information Office,
- Military National Security Office,
- Special Service for National Security
- Counter-terrorism Intelligence and Criminal Analysis Centre (CTICAC)
- National Police Headquarters,
- National Directorate General for Disaster Management, Ministry of Interior (NDGDM)
- National Tax and Customs Office,
- Office of Immigration and Nationality,
- Ministry of Interior
- Ministry of Foreign Affairs and Trade.

Among these organisations, the Counter Terrorism Centre and the Counter-terrorism Intelligence and Criminal Analysis Centre have to be analysed in details.

The CTC was established on the 1st September 2010. The CTC is a national authority under the direct supervision of the Minister of Interior, acting independently with independent finances, receiving its funds from the Central Budget. The organization is therefore independent of all police and national security organizations. The Director General of CTC is appointed by the Prime Minister upon the recommendation of the Minister of Interior. The main tasks of the CTC are to detect terrorist organizations acting in the territory of Hungary, to prevent these organizations from committing crimes, as well as to prevent any organization or individual from facilitating the operation of terrorist organizations on the territory of Hungary by providing financial resources or in any other way. The organisation has specific powers at the national level to coordinate the fight against terrorism, based on its own analysis and evaluation. It plays a special role in handling possible emergency situations and in the operational coordination of counter terrorism activities. CTC merges the police and civilian national security functions of counter-terrorism in Hungary, however, it does not carry out open investigative activities, since it is not an investigating authority. This task is carried out by the National Investigation Bureau, belonging to the agency carrying out general police duties. On the national level, CTC is responsible for information and intelligence gathering, analysis and assessment of the terrorist threat, as well as for operational tasks. It carries out the prevention, detection and interruption of terrorist activities and intelligence gathering regarding terrorism related activities in Hungary. The Director General of CTC acts as the Chairman of the Counter Terrorism Coordination Committee, responsible for counter-terrorism coordination at the operational level between the relevant national agencies.

The Counter-terrorism Intelligence and Criminal Analysis Centre was established on the 17th of July 2016 as a national security service. The CTICAC is supervised by the Minister of Interior. The CTICAC’s main tasks are detailed in the Act on the National

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99 https://rm.coe.int/1680641011 (28.03.2018.).
100 Government Decree 232/2010 on the Counter Terrorism Centre of 19 August.
101 https://rm.coe.int/1680641011 (28.03.2018.).
Security Services. The CTICAC examines Hungary’s overall crime and safety situation, within the frameworks of which, it monitors and with the use of all the relevant and available data, continuously analyses Hungary’s national security, criminal situation and terrorist threat. Upon request, it also evaluates the task execution of the organizations involved. It is important to mention that it will not have the right to collect information in secret. In order to facilitate the decision-making, concerning strategic questions about national security, criminal situations and terrorist threats, the CTICAC makes propositions to the ministers responsible for directing the national security services to define the relevant tasks. It also performs strategic analysis and it determines demands concerning information for the organisations involved. Furthermore, it proposes the level of threat of terrorism based on the evaluation of information concerning Hungary’s terrorist situation. The CTICAC compiles, actualizes and transmits ad hoc and periodic news demands to the organizations involved, which are needed for the government’s decision-making. The CTICAC processes information harmful to national security, law enforcement, public safety or any other fundamental security interest, and through its analyses to compiles as comprehensive a picture as possible of terrorist and/or other threats to the nation, the domestic security situation and the state of public safety. It will operate an information system with regard to the above and provide regular evaluation reports to the Government. The CTICAC handles databases for the purposes of national level coordination and creates informative assessments, background and risk analysis. It is worth mentioning that the national security services cannot link their own data-handling system to that of the CTICAC’s system. The CTICAC, on the other hand, may link its own data-handling system to any other such system of the national security services. The CTICAC also assists the security and criminal decision-making of the government by providing statistical data that is anonymised.

The Ministry of Foreign Affairs and Trade is the national focal point in international political cooperation on counter-terrorism, and in this capacity:

- coordinates the implementation of relevant international obligations, i.e. UN Security Council resolutions on terrorism-related sanctions and the procedural rules for submitting complaints thereto (Government Decree 212/2010 (VII.1.) and EU terrorism-related sanctions;
- is responsible for the formulation of coordinated positions related to counter-terrorism to be represented at different international fora (i.e. UN, EU, OSCE, Council of Europe) and in bilateral negotiations;
- makes proposals on concrete national policies concerning Hungary's participation in international counter-terrorism activities.

2E. Preventive programmes or alternatives measures for juveniles to counter-terrorism in the country

Among the preventive measures against terrorism, the Anti-Money Laundering legislation has to be mentioned. Hungary fulfilled his obligations relating to the EU law

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102 Act CXXV of 1995 on the National Security Services.
103 https://rm.coe.int/1680641011 (28.03.2018.).
104 https://rm.coe.int/1680641011 (28.03.2018.).

Service providers shall apply customer due diligence measures in the following cases:

a. when establishing a business relationship;
b. when carrying out an occasional transaction that amounts to three million six hundred thousand forints or more;
c. in the case of persons trading in goods, when carrying out occasional transactions in cash amounting to two million five hundred thousand forints or more;
d. when carrying out an occasional transaction that constitutes a transfer of funds, exceeding three hundred thousand forints;
e. for providers of gambling services, other than distance gambling, upon the payment of winnings amounting to six hundred thousand forints or more in the case of gambling services, other than distance gambling, provided through means other than communications equipment and networks, or upon the payment from player account amounting to six hundred thousand forints or more in the case of gambling services, other than distance gambling, provided through communications equipment and networks;
f. when there is any information, fact or circumstance giving rise to a suspicion of money laundering or terrorist financing, where the due diligence measures have not been carried out yet;


The Act applies to the following entities having a registered office, branch or business establishment in Hungary:

a) credit institutions;
b) financial services institutions;
c) institutions for occupational retirement provision;
d) voluntary mutual insurance funds;
e) operators accepting and delivering international postal money orders;
f) providers of real estate agency or brokering and any related services;
g) providers of auditing services;
h) providers of accountancy (bookkeeping), tax expert, certified tax expert services, tax advisory activities under agency or service contract;
i) operators of casinos, card rooms, or providers of gambling services - other than distance gambling - distance gambling services, online casino games;
j) traders in precious metals or articles made of precious metals;
k) traders in goods, involving a cash payment in the amount of two million five hundred thousand forints or more;
l) attorneys, notaries public; and
m) fiduciary managers (Section 1 of the Anti-Money Laundering Act).
g. when there are doubts about the veracity or adequacy of previously obtained customer identification data.\(^{108}\)

In these cases, service providers shall carry out customer identification and verification procedures, including the customer’s agent, proxy or other authorized representative.\(^{109}\) The Act also distinguishes between simplified and enhanced customer due diligence obligation.\(^{110}\)

The directors, employees of service providers and their contributing family members shall report without delay any information, fact or circumstance giving rise to a suspicion:

a. of money laundering,

b. of terrorist financing, or

c. that specific property is derived from criminal activity, that is to be reported.

The report contains the data and information the service provider has recorded, detailed description of the information, fact or circumstance relevant for reporting; and documents supporting the information, fact or circumstance relevant for reporting, if available.\(^{111}\) Service providers shall appoint one or more persons to forward without delay to the financial intelligence unit the reports received from the directors and employees of service providers and their contributing family members. The compliance officer must be a director or employee of the service provider, or their contributing family member. Until the report is dispatched, the service provider shall refrain from carrying out the transaction. Disclosure of information in good faith by a director or employee of a service provider, including their contributing family members and the compliance officer shall not constitute a breach of any restriction on disclosure of information imposed by legislative provision or by contract, and shall not invoke civil or criminal liability even in circumstances where the report ultimately proves to be unfounded. The service provider shall suspend the execution of a transaction if any information, fact or circumstance relevant for reporting arises, where in the service provider’s opinion immediate action by the financial intelligence unit is considered appropriate for investigating such information, fact or circumstance. In that case, the service provider shall without delay report to the financial intelligence unit to investigate the cogency of the report.\(^{112}\)

The Hungarian financial intelligence unit is called Office against Money Laundering and Terrorist Financing and operates within the framework of the National Tax and Customs Administration. The financial intelligence unit shall perform analysis and assessment with a view to combating money laundering and terrorist financing, and for the purpose of prevention, detection and investigation of criminal activities, including operational and strategic analyses.\(^{113}\)

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\(^{108}\) Section 6 of the Anti-Money Laundering Act.

\(^{109}\) Section 7 of the Anti-Money Laundering Act.

\(^{110}\) Sections 15-21 of the Anti-Money Laundering Act.

\(^{111}\) Section 30 of the Anti-Money Laundering Act.

\(^{112}\) Section 31-34 of the Anti-Money Laundering Act.

\(^{113}\) Section 38 of the Anti-Money Laundering Act.
The financial intelligence unit may disclose the findings of its operational analysis exclusively for the purpose of combating money laundering and terrorist financing, and for the purpose of prevention, detection or investigation of criminal activities, to:

a. the investigating authorities;
b. the public prosecutor’s office;
c. the court;
d. the national security services;
e. the internal affairs division that investigates professional misconduct and criminal acts, and the anti-terrorist organization defined by the Act on the Police.

The financial intelligence unit may on its own accord participate in international exchange of information and cooperation with foreign financial intelligence units with a view to combating money laundering and terrorist financing and to facilitating the prevention, detection or investigation of criminal activities, and also with Europol in accordance with the Act on the International Cooperation of Law Enforcement Authorities.114

3. Administrative measures in the counter-terrorism context

3A. Description of the different types of restrictive measures aimed at preventing terrorism in the country (control orders, travel bans, house arrests, etc.)

The provisions relating to house arrest can be found in the Criminal Procedure Code. House arrest can be regarded as a coercive measure. According to the provisions of the CPC, house arrest sets limit to the freedom of movement of the defendant and right of the defendant to choose residence without restriction. In case the house arrest has been ordered, the defendant may leave the house designated by the court and the precinct thereof for reasons determined by the decision of the court, thus particularly for the regular needs of everyday life or for participation in medical treatment for the time and distance (line of route) specified therein. House arrest may be ordered if in consideration of character of the crime, and the duration of the criminal proceedings, or the way the defendant behaved during the proceedings and the aims of the preliminary arrest may be ensured by this way as well. In the case that house arrest has been ordered, the provisions of ordering, extension, sustenance and termination of preliminary arrest shall be applicable to the order, duration, sustenance and termination of house arrest. The court may order that the police shall keep track of the movement of the defendant by means of technical devices – on the consent of the defendant - in order to ensure the

114 Sections 48-49 of the Anti-Money Laundering Act.
prescriptions of the house arrest to be upheld. The control over the maintenance of the
prescriptions of the house arrest is regulated by separate laws. The house arrest shall not
be ordered against a soldier during the time of his service relations.\textsuperscript{115}

In 2016, Act LXIX of 2016 entered into force on the 17th July 2016 modifying the Police
Act.\textsuperscript{116} According to the amendment, in the event of the commission or preparation of an
act of terrorism, the police are entitled to introduce high-level security measures in order
to prevent, interrupt and prosecute terrorist offences. These security measures are the
following:

\begin{itemize}
\item a. verification of the identity of persons
\item b. search of clothing
\item c. inspection of buildings, vehicles and packages
\item d. confiscation of materials or devices which may constitute a threat to public security
\item e. removal and destruction of unauthorized object threatening to public security, with the
due diligence required
\item f. interrupting of organized events
\item g. protection of the whole or part of the affected area
\item h. direction, restriction or suspension of road traffic
\item i. restriction or suspension of public transport
\item j. removal of vehicle.
\end{itemize}

These high-level security measures can last for 72 hours, which can be extended by an
additional 72 hours if required. If direct, specific and substantiated information justifies it,
the National Police Commissioner can maintain these measures even after the deadline.\textsuperscript{117}

Furthermore, in order to maintain the security of the state borders, border crossing
points and institutions of paramount importance to the State, the Police may place video
recorders at such locations. Personal data acquired by the Police during the monitoring of
entry and exit to institutions of paramount importance, which are secured by the Police,
can be handled by the Police for up to 30 days. Data regarding reports on suspicious
transactions of explosives-precursors can be handled by the Police for up to 5 years from
the date of the submission of such a report. These data can be forwarded to national
contact points or national contact points abroad.\textsuperscript{118}

Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals\textsuperscript{119} also
contain some administrative restrictive measures which directly aim to prevent terrorism.

The authority carrying out border checks shall refuse the entry of third-country nationals
seeking admission for stays for an intended duration of no more than ninety days according
to the provisions of the Schengen Borders Code, and shall return such persons - in due
observation of its interests:

\begin{itemize}
\item \textsuperscript{115} Section 138 of the CPC.
\item \textsuperscript{116} Act XXXIV of 1994 on the Police.
\item \textsuperscript{117} Section 37/A-37/B of Police Act.
\item \textsuperscript{118} Section 42-42/A of Police Act. See: https://rm.coe.int/1680641011 (28.03.2018.).
\item \textsuperscript{119} Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals.
\end{itemize}
a. to the country of origin of the third-country national in question;
b. to the country that is liable to accept the third-country national in question;
c. to the country where the customary residence of the third-country national in question is located;
d. to any third country prepared to accept the third-country national in question.

The decision for the refusal of entry may not be appealed.120

The immigration authority, if it finds that a third-country national who has lawfully resided in the territory of Hungary no longer has the right of residence, shall adopt a resolution to refuse his/her application for a residence permit or to withdraw the document evidencing right of residence of the third-country national in question, and – with the exceptions set out in this Act – shall order him/her to leave the territory of the Members States of the European Union. The third-country nationals may seek remedy against the expulsion order in the appeal submitted to challenge the resolution adopted to refuse the application for residence permit or to withdraw the document evidencing right of residence. If the court’s decision is for expulsion121 or the immigration authority considers that the conditions for the third-country national's expulsion under this Act do exist, the immigration authority shall - with the exceptions set out in this Act - adopt a decision ordering the third-country national in question to leave the territory of the Member States of the European Union.122

The immigration authority shall independently order the exclusion of a third-country national whose whereabouts are unknown or who resides outside the territory of the Republic of Hungary, and:

a. who must not be allowed to enter the territory of Hungary under international commitment; or
b. who is to be excluded by decision of the Council of the European Union;
c. whose entry and residence represents a threat to national security, public security or public policy;
d. who has failed to repay any refundable financial aid received from the State of Hungary;
e. who has failed to pay any instant fine or a fine imposed in conclusion of a misdemeanour proceeding within the prescribed deadline, and there is no possibility to enforce it;

120 Section 40 of Act II of 2007.
121 According to the Hungarian Criminal Code, perpetrators of citizenship other than Hungarian, whose presence in the country is not desirable, shall be expelled from the territory of Hungary. Persons expelled shall leave the territory of the country and may not return for the duration of the term of expulsion. Persons granted asylum may not be expelled. Expulsion may be imposed upon a person who has the right of free movement and residence or a person with the right of residence in the territory of Hungary under permanent resident or refugee status only in connection with the commission of a criminal offense that is punishable by imprisonment of five or more years. Expulsion may only be imposed upon a person sentenced to a term of imprisonment of ten years or more who has been residing in the territory of Hungary legitimately for not less than ten years; or who is lawfully residing in the territory of Hungary and whose right to family union would be injured; provided that the presence of the perpetrator in the country is assessed as posing a potential and considerable risk to public safety. Expulsion may be ordered for a definite term, or permanently. The minimum duration of a fixed-term expulsion shall be one year, its maximum duration shall be ten years (Sections 59-60 of the CC).
122 Section 42 of Act II of 2007.
f. who did not pay the customs penalty imposed by final decision under the Act on the Implementation of Union Customs Law, or if the enforcement thereof is not possible.\textsuperscript{123}

The immigration authority shall order the expulsion of a third-country national under immigration laws who:

a. has crossed the frontier of Hungary illegally, or has attempted to do so;
b. fails to comply with the requirements set out in this Act for the right of residence;
c. was engaged in any gainful employment in the absence of the prescribed work permit or any permit prescribed under statutory provision;
d. whose entry and residence represents a threat to national security, public security or public policy; or
e. whose entry and residence represents a threat and is potentially dangerous to public health.\textsuperscript{124}

\textbf{3B. Description of the possibilities to challenge administrative measures}

A criminal expulsion – which is regulated in the CC – is a criminal sanction, therefore it can only be imposed by the Court. The judgement of the Court can be subject to appeal. According to the CPC, the following parties shall be entitled to lodge an appeal against the verdict of the court of first instance:

a. the accused,
b. the prosecutor,
c. the substitute private accuser,
d. the defence counsel – even without the consent of the accused,
e. the heir of the accused – against orders granting a civil claim,
f. the legal representative and the spouse of an accused of legal age – even without the consent of the accused – against an order for involuntary treatment in a mental institution,
g. the private party, against a disposition adjudicating a civil claim in its merit,
h. those against whom a disposition has been made in the verdict, in respect of the relevant order.

Those to whom the verdict has been communicated by way of an announcement shall lodge their appeal immediately or may request a 3-day deadline. No justification may be admitted for missing this deadline. Verdicts communicated by way of a notice served may be appealed within 8 days. If the appeal is not made at the time of the announcement of the verdict, it shall be either submitted to the court of first instance in writing, by the means of telefax, computer or recorded in the minutes upon a verbal statement.\textsuperscript{125}

\textsuperscript{123} Subsection 1 of Section 43 of Act II of 2007.
\textsuperscript{124} Subsection 2 of Section 43 of Act II of 2007.
\textsuperscript{125} Sections 324-325 of the CPC.
House arrest is a coercive measure which can also be ordered by a judge. According to the CPC, before filing the indictment, the investigating judge is entitled to decide on the motions for coercive measures falling under the competence of court.\textsuperscript{126} The decision of the investigating judge can also be subject to appeal. According to the provisions of the CPC, the decision of the investigating judge may be appealed by the party who was notified of such decision. Any appeal against a decision communicated by way of an announcement shall be lodged immediately after the announcement. Those entitled to appeal but have not been present at the announcement of the decision may lodge an appeal within 3 days following the session. Decisions communicated by way of a service may be appealed by those entitled within 3 days following the service thereof.\textsuperscript{127}

According to the provisions of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, expulsion ordered by the immigration authority may not be appealed. However, a petition for judicial review may be lodged within eight days of the date when the resolution was delivered. The court shall adopt a decision within fifteen days upon receipt of the petition. The decision of the court cannot be subject of further appeals.\textsuperscript{128}

4. Conclusion

Hungary condemns terrorism in all its forms and shares the view that international terrorism is one of the most important security threats. According to the latest information, as a central European country, Hungary is not a country that is threatened or targeted by international terrorism and no international terrorist networks exist within its borders. At the present time Hungary is only affected in the Foreign Terrorist Fighter phenomenon by virtue of geography and its position as a transit route.\textsuperscript{129}

It has to be highlighted that Hungarian anti-terrorism laws are heavily influenced by international obligations and by the requirements resulting from the EU law. The Hungarian regulation is in compliance with the relevant international and EU obligations.

Because of the history (there is no colonial past) and the demographic character (the population is homogeneous, the most significant minority are Roma who have lived in the country for several centuries) of Hungary, the problem of terrorism takes not the same form as in many Western European countries.\textsuperscript{130}

\textsuperscript{126}Subsection 2 of Section 207 of the CPC.
\textsuperscript{127}Subsection 1 of Section 215 of the CPC.
\textsuperscript{128}Subsection 2-2b of Section 46 of Act II of 2007.
\textsuperscript{129}https://rm.coe.int/1680641011 (28.03.2018.).
The relationship with minorities living in Hungary is fundamentally normal; political, religious, or other attitudes do not appear statistically in respect of juvenile delinquency. Political radicalization was more likely to occur in recent years, not among juveniles, but young adults and adults. The radicalization of young people has no religious, political or other motives; similar processes could be observed in connection with football hooliganism.

This is demonstrated by the fact that juvenile offenders were not held responsible for act of terrorism or for the support of terrorist offences. There were no criminal proceedings initiated against juveniles in connection with these offences. Among the similar – terrorism-type – criminal offences, the Criminal Offence with Firearms and Ammunition was typically committed, but political or other background could not be proven in connection with these offences either.

Criminal legislation therefore does not prioritize this question; as result of which the Hungarian legal regulation does not allow different rules for juveniles in the case of terrorism-related offences.

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LATVIA

Latvian Centre for Human Rights

Anhelita Kamenska
Jekaterina Kirjuhina
1. Counter-terrorism approach and policies (under 18) in Latvia

1A. Sociological background, roots of terrorism, definition of terrorism, violent extremism, counter-terrorism

In Latvia, “terrorism” is defined in the Section 88 of the Criminal Law:

*The use of explosives, use of fire, use of nuclear, chemical, biological, bacteriological, toxic or other weapons of mass destruction, mass poisoning, spreading of epidemics and epizootic diseases, kidnapping of persons, taking of hostages, hijacking of air, land or sea means of transport or other activities if they have been committed for the purpose of intimidating inhabitants or for the purpose of inciting the state, its institutions or international organisations to take any action or refrain therefrom, or for the purpose of harming the State or its inhabitants or the interests of international organisations.*\(^1\)

Thus far, the terrorism alert has been low in Latvia. According to the Security Police (SP) reports for 2014, 2015, 2016 and 2017 the main events that promoted manifestations of radicalisation in Latvia are connected to the conflict in the East of Ukraine, the war in Syria and Iraq, and reception of asylum seekers in Latvia.\(^2\)

*Syria, Iraq*

The SP has reported about several members of the Muslim community in Latvia who departed for Syria and Iraq and joined DAESH in 2015 and 2016, including the former leader of the Latvian Islamic Cultural Centre who remains an authority figure among separate members of the Latvian Muslim community and active in the dissemination of DAESH propaganda in Latvian and Russian.\(^3\) At the same time, the SP have stressed that the overwhelming majority of the Muslim community members are well integrated. According to the SP, the highest risk of radicalisation comes from converted Muslims among local ethnic Latvians and Russians. These are persons who have gone to study to countries with increased presence of terrorist organisations, who have come into contact with radical interpretation of Islam on internet sites or in prison, or have travelled to territories where armed conflict is taking place. According to the SP, the knowledge and experience of converted Muslims studying in countries with increased presence of terrorist organisations may potentially serve as a basis for drawing in other young Muslims and having a negative influence on their understanding of Islam. This is one of the ways in which radical interpretation of Islam is spreading among young Muslims in Latvia.\(^4\)

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1 Criminal Law, available at: https://likumi.lv/doc.php?id=88966
its 2017 annual report, the Security Service highlights that the radicalisation of these representatives of Latvian Muslim community is not influenced by the interpretation of Islam in community prayer houses.5

Among those converted Latvians who joined the DAESH there are men and women who departed together with their small children. During 2014-2017, 4 criminal proceedings under Section 771 have been initiated for unlawful participation in foreign armed conflict in Syria.6

Reception of asylum seekers within the EU relocation programme increased the activities of local right wing anti-migrants activists that manifested as protest actions against migrants and Refugees and mostly online hate speech. In its reports, the SP draws special attention to the spread of propaganda through internet aimed at radicalisation, such as hate speech, videos and other materials, etc.

Ukraine

The SP has reported about a number of Latvian residents who are taking part in the armed conflict in the East of Ukraine either on the side of pro-Russian separatists, or the controversial Ukrainian voluntary armed forces. At least seven criminal proceedings were initiated in 2014 and 2015 for unlawful participation in foreign armed conflict in the East of Ukraine.7

Right-wing and left-wing extremism

According to the Annual Report of the Security Police for 2017, left and right radical and extremist movements were not able to strengthen their presence in Latvia due to various factors. Left-wing radical and extremist organisations do not exist in Latvia, while right wing organisations are small and passive, and internally fragmented. Right wing activists predominantly express their opinion on the internet, occasionally organize a public event, which are of low public interest, or join an event organized by other organizations with an aim to popularize their ideology and to express opinion against immigration, the social-political situation in Latvia and other issues. In some cases, ultra-right oriented persons, such as skinheads, planned hooligan activities. The Security Police also draw attention to groups organising paramilitary activities such as self-defence, combat and gun training, thus combining popularisation of radical ideology and the acquiring of specific skills.8

A number of racist extremist groupings emerged in the early 1990s. However, those were unable to strengthen their presence. In the late 1990s several ethnically divided militant extremist groupings – Latvian and Russian - became active. Latvian extremists tend to direct hate towards Russians, but Russian extremists directed antipathy towards the Latvian state and the West and glorified the Soviet Union or Russia.9

6 Ibid, 31
9 Cas Mudde, (2005), Racist Extremism in central and Eastern Europe, pp 102
The foremost extremist organisation in 1990s was the Thundercross (Perkonkrusts), whose ideology was termed as ethno-racial nationalism. Its members were tried for an attempt to blow-up the Monument of the Soviet Liberators of Riga from Nazi Invaders, which took place in 1997 and resulted in the accidental deaths of two members. Other crimes committed by the organisation members were also documented, such as an attempt to blow up a car, assault against a person, kidnapping and torture, etc. Two members of the organization were found guilty of incitement of national or racial hatred. These were the first convictions of incitement to hatred. At present, some former members of the Thundercross are visible only when taking part in events organized by other organisations and on the internet.

1B. The most common forms of terrorism and the profiles of youngsters suspected of accused of terrorism in the country

So far, no juveniles have been suspected or accused of terrorism or violent extremism in Latvia. In 2017, a 23 year-old man was sentenced for unlawful participation in the armed conflict in Syria. According to the publicly available information, the person, an ethnic Latvian, converted to Islam in 2013 when he was a secondary school student. In 2014, he departed to Syria to join DAESH, but later escaped from DAESH, was arrested in Turkey and consequently deported to Latvia. He was sentenced to 10 years and three months of imprisonment for illegal participation in a foreign armed conflict and joining an organisation committing crimes (Section 77 and 89 of the Criminal Law). The court decision has been appealed.

1C. Global political approach/trends and legislative focus in response to terrorism

The background for legal provisions in response to terrorism is the National Security Concept and the National Counter-terrorism Plan. National Security Concept approved in 2015 includes some recommendations on radicalisation and terrorism prevention. Counter-terrorism measures are implemented in accordance with the National Counter-Terrorism Plan. The plan should be updated no fewer than once in two years.

The Security Police is the main institution responsible for counter-terrorism measures. In 2005, the government established the Counter-terrorism Centre which is coordinated by the SP. It is responsible for the elaboration of national counter-terrorism policy and co-ordination of state, municipal and other institutions in anti-terrorism activities. It also has an Advisory Council.

10 Cas Mudde, (2005), Racist Extremism in central and Eastern Europe, pp 105-106
11 Ibid.31
14 Cabinet of Ministers, Summary of the concept on establishment of Anti-terrorism Centre, available in: https://likumi.lv/doc.php?id=97129
2. National legislation in counter-terrorism context

2A. National legislation connected to terrorism and or violent extremism

Until May 2018, criminal liability for acts of terrorism is set out in the Criminal Law special chapter on crimes against the state. Sections 88, 881, 882 and 883 foresaw criminal punishment for the acts of terrorism, including establishment and leading of a terrorist group, financing terrorism, calls for terrorism or threats of terrorism, recruitment and training for terrorism. The definition of "financing terrorism" is provided in the Section 5 of the Law on the Prevention of Money Laundering and Terrorism Financing.15

In addition, in the context of armed conflicts in the East of Ukraine and in Syria, Criminal Law was amended in 2015, introducing new sections 771, 772, 773. The provisions stipulate criminal liability for unlawful participation in a foreign armed conflict, financing of foreign armed conflict, recruitment, training and sending to an armed conflict.

In 2017, the Ministry of Justice elaborated draft amendments outlining terrorist offences in a new chapter "Crimes connected to terrorism". The amendments were based on the Additional Protocol of the Council of Europe Convention on the Prevention of Terrorism16 and the Directive of the European Parliament and the Council on Combating Terrorism17 and were adopted by the parliament on 26 April and came into force on 9 May 2018.18 These amendments replace earlier legal provisions concerning terrorism related crimes and aim at harmonising legal regulations on counter-terrorism in line with international standards, and also introduce criminal liability for a number of new types of offences.

The law defines and criminalises terrorism, organising and joining a terrorist group, terrorist financing, recruitment for terrorism, providing training for terrorism, receiving training for terrorism, travelling for the purposes of terrorism, justification of terrorism, incitement to terrorism, and threat to commit a terrorist act. (Sections 79.1 - 79.6).

In November 2017, the amendments to the Law on the Prevention of Money Laundering and Terrorism Financing came into force stipulating that all legal persons – Ltd., corporations, religious organisation, associations, foundation and others – have to register their beneficiary owners. The information about beneficiary owners will be available to the institutions who are obliged to check beneficiary owners of legal persons. In case the

16 Latvia ratified the Convention on 2 February 2009, and it came into force on 1 June 2009.
18 Amendments to the Criminal Law (Grozījumi Krimināllikumā), Latvijas Vēstnesis, 90 (6176), 09.05.2018, at https://likumi.lv/tva/id/298836-grozijumi-kriminallikuma
information about the beneficiary owner is not provided or provided incorrectly the bank can refuse to open a bank account or transaction can be cancelled. The Register of Enterprises can postpone the registration of a new legal person if the information about the beneficiary owner is not provided.\footnote{Latvijas Vēstnesis, Kā noskaidrot patieso labuma guvēju, 25.02.2018, http://m.lvportals.lv/visi/skaidrojumi?id=292873}

**Hate crime legislation**

There is no definition of violent extremism in Latvian Criminal Law. Violent extremism can be subsumed under hate crime legislation if committed with racial, ethnic, religious motive or other grounds.

Latvian hate crime legislation is comprised of several articles in the Criminal Law. Sections 78 (incitement to racial, ethnic, national, religious hatred) and 150 (incitement to social hatred on grounds of gender, age, disability or other features) are used to address both hate speech and hate crimes, even if the provisions have been designed to address incitement to hatred. It also includes general penalty enhancement (racist, ethnic and nationalist motives as aggravating circumstances clause, Section 48 (1) 14)). Racist crimes or incitement to racist hatred cases related to violence or threats or if committed by an organised group envisage deprivation of liberty for a term up to ten years, with or without probationary supervision for a term up to three years. (Section 78 (3)).

In Latvia, the Security Police (Drošābas policija), which is one of the three national security agencies, has general jurisdiction over the investigation of crimes falling under Section 78 as it is included in Chapter IX (Crimes against Humanity, War and Peace) of the Criminal Law. In hate crime/speech cases falling under the Section 78 the initial investigation is conducted by the Security Police, however in the cases of racist incidents, including violent racist crimes, occurring in the 'street', the initial investigation is conducted by the State Police and then forwarded to the Security Police. In cases falling under Section 150 (incitement to hatred and hate crime cases on grounds of gender, age, disability and other features), the investigation is conducted by the State Police.

Since 2010, there has been only one case of racially motivated violence registered by the police.
2B. National legislation connected to the specific need of juveniles suspected or accused of violent extremism or terrorism

There is no specific legal provision connected to the specific need of juveniles suspected or accused of violent extremism or terrorism.

2C. National policy and strategies connected to issues of terrorism implemented (policies concerning adults and juveniles)

The National Security Concept\(^{21}\) includes recommendations on radicalisation and terrorism prevention. In order to strengthen the capacity of law enforcement institutions, it recommends the establishment of early warning and radicalisation prevention mechanisms in cooperation with NGOs. It stresses the importance of society education about the danger of extremism.

\(^{20}\) Both the number of cases when criminal proceedings were opened and when refused.

\(^{21}\) National Security Concept, available at: https://likumi.lv/ta/id/278107-par-nacionalas-drošibas-koncepcijas-apstiprināšanu
Counter-terrorism measures are implemented in accordance with the National Counter-terrorism Plan\textsuperscript{22}. The plan should be updated no fewer than once every two years. According to publicly available information, counter-terrorism measures include counter-terrorism training of responsible institutions, security checks of critically important infrastructure objects, informative meetings with representatives from municipalities, and ID checks on individuals arriving from countries with the high level of terrorism risk.

None of the main youth policy documents such as the Youth Law\textsuperscript{23}, Youth Policy Implementation Plan 2016-2020\textsuperscript{24}, Youth Policy State Programme 2017\textsuperscript{25} contain measures aimed at the prevention of youth radicalisation.

\textbf{2D. Preventive programmes or alternative measures for juveniles to counter-terrorism}

There are currently no preventive programmes or alternative measures for juveniles to counter-terrorism.

In order to raise public awareness about potential youth radicalisation, the Security Police has published several leaflets. Such activities remain rare.

In 2017, the SP issued a leaflet on the prevention of religious radicalisation\textsuperscript{26}. It pays special attention to the prevention of Islamic radicalisation among children and young people. The leaflet describes the most common indicators of possible radicalisation and ways in which to respond to it. In January 2018, the SP issued a booklet for librarians with recommendations on how to identify persons, particularly youths, potentially subjected to radicalisation\textsuperscript{27}. The SP also conducted meetings with representatives of Latvian libraries discussing indicators of radicalisation and cooperation on reporting about the persons who show increased interest towards Muslim religion, terrorist organisations and propaganda.\textsuperscript{28}

One of the priority directions for research defined by the Cabinet of Ministers in the end of 2017\textsuperscript{29} is public safety, including radicalisation issues. However, they do not specifically target youths.

\textsuperscript{23} Jaunatnes likums, available at: https://likumi.lv/doc.php?id=175920
\textsuperscript{28} News agency LETA, DP: \textit{Bibliotekāru ziņošana par personas pievēršanos radikālam islāmam nepārākā datu aizsardzības normas}, 23.01.2018.
3. Administrative measures in the counter-terrorism context

3A. Restrictive measures aimed at preventing terrorism (control orders, travel bans, house arrests etc.)

- National Security Law was amended by the parliament on 22 June and the amendments came into force on 1 September, 2017\(^\text{30}\) (also Law on Personal Identification Documents, 22 June).

- A new chapter II on “Prohibition to Leave the Republic of Latvia” whereby a Latvian citizen, non-citizen, a stateless person, or a person who has been granted refugee or subsidiary status is prohibited from leaving Latvia upon a decision of the Minister of Interior.

- The Minister can issue a ban for up to one year if the security institution has received information that the person plans to join armed conflict, engage in terrorist or other activities and may pose a national security threat upon return.

- The Minister of Interior will inform the Office of Citizenship and Migration Affairs within three days and the person in question will be notified about the ban.\(^\text{31}\)

- The person in question can appeal the decision in Administrative Case Department of the Supreme Court within a period of one month since the decision of the Minister of Interior. The Court will act as a first instance court and its decision is final.\(^\text{32}\)

The SP conducts immigration security checks on persons applying for visas, residence permits and asylum in Latvia. In 2014, the SP identified one person among the applicants for asylum allegedly connected to Syrian rebel groups (later the person withdrew the application).\(^\text{33}\) In 2015, one asylum seeker was deported from the country due to his alleged links with foreign terrorist groups.\(^\text{34}\) In 2016, there were two cases when the SP issued a refusal to grant visa and residence permit based on threats of terrorism. In evaluating relocated persons from Italy and Greece to Latvia in the framework of the EU asylum seekers relocation programme, the SP recommended not to accept 18 persons due to the risk of their links with terrorist or armed groups.\(^\text{35}\)

\(^{30}\) Amendment to the National Security Law (Grozījums Nacionālajā drošības likumā), 22.06.2017, https://likumi.lv/ta/id/292026-grozijums-nacionalas-drosibas-likuma

\(^{31}\) Ibid. Article 18.1

\(^{32}\) Ibid. Article 18.2


3B. Possibilities to challenge administrative measures (judicial review and monitoring mechanisms work in practice, statistics)

There are no known cases whether restrictive measures have been applied and challenged.

Conclusions

The issues of radicalisation of juveniles in Latvia has not been researched. The main events that have promoted the manifestations of radicalisation in Latvia in the recent years are connected to the conflict in the East of Ukraine, war in Syria and Iraq, and reception of asylum seekers in Latvia. A number of criminal proceedings have been initiated for unlawful participation in foreign armed conflict in Syria and Iraq. Thus far, a 23-year-old ethnic Latvian man has been sentenced to imprisonment, however, the court decision has been appealed. There have been no juveniles suspected or accused of terrorism-related offences. The effective legal provisions on counter-terrorism do not specifically tackle the question of juveniles. The institution responsible for counter-terrorism measures – the Security Police highlights that young people are the group most subjected to the risk of radicalisation and stresses the importance of public education. Latvia has amended counter-terrorism legislation a number of times, including in 2018, to bring it in line with the relevant EU Directives and Council of Europe Convention.
THE NETHERLANDS

Defence for Children
Mariëlle Bahlmann

Stichting 180
Anna Hulsebosch

The original report was produced in Dutch. The English translation of the report was conducted by Madelief Schagen.
1. Introduction

This report has been written in the context of the European project ‘Strengthening Juvenile Justice Systems in the counterterrorism context: capacity building and peer-learning among stakeholders’. The main objective of the project is to identify, promote and strengthen juvenile justice systems’ policy responses and specialized programming to face terrorism and violent extremism in juveniles.

One of the project’s results is an overview report on the existing legal framework, public policies and programs directed at juveniles involved in violent extremism in Europe. This research will be based on national reports; this report is the national report on The Netherlands.

This national report gives an assessment of the current situation of juveniles suspected or accused of terrorism regarding their protection under international and European law in the project partner countries. It includes a description of the background of terrorism, as well as current regulations regarding countering terrorism in The Netherlands. The report also presents ‘good practices’, being the tools and evaluated programs used to improve and strengthen the juvenile justice systems in the context of counter-terrorism.

The findings of the research in all the participating EU member states will give rise to an online community practice and will be presented during the final conference of the project in December 2018.
2. Counterterrorism approach and policies (under 18) in The Netherlands

2.1 Sociological background and the roots of terrorism

Although not all actions could be named as ‘terrorism’ at the time, it can be said that terrorism (based on the current definition) has led to approximately 70 attacks and 30 deaths in The Netherlands. Among the fatal casualties were hostages, police and customs officers, high-ranking officers and a film director. The most violent and deadly attacks took place in the 1970’s. The terrorist acts that took place in The Netherlands were perpetrated by roughly seven groups.¹

1) De Rode Jeugd/Rode Hulp (the Red Youth/Red Help)
This ‘home-grown’ terrorist organisation was founded as a Maoist fraction of the Communist Party of The Netherlands (CPN). In between 1965 and 1967, supporters held various protest marches against the war in Vietnam and military coups in Indonesia and Greece. The planting of several (primitive) bombs was also attributed to them.

2) Moluccan acts
The Moluccan acts took place from 1970 to 1979. They were caused by dissatisfaction young second and third generation Moluccans felt about The Netherlands breaking its political promises. Their acts caused nine deaths; in addition to that, eight Moluccans died. They were also responsible for several hostage-takings, in which a total of 350 people were held.

3) Palestinian acts
In the 1970’s, Palestinian terrorists (including members of the Palestine Liberation Organization (PLO)) were responsible for two hijacks of Dutch aircrafts. No one was killed or injured.

4) Revolutionary Anti-Racism acts (RaRa)
In the 1980’s and 1990’s, Rara perpetrated several fire and bombing attacks. Their main purpose was the withdrawal of companies from South Africa in view of the apartheid regime.

5) Acts by others
On the one hand these contain acts by national political groups such as the ETA² or the IRA³, or acts of those with radical interpretations of ideologies such as the Marxism.⁴ On the other hand these contain acts by antifascists, opponents of the asylum policy and environmentalist. The latter category initially dealt with compartmentalisation: most activists and extremists engaged themselves in mainly one subject, so-called ‘single-issue’ protesting.⁵

¹ Van der Woude 2009; Wikipedia 2017.
² Euskadi Ta Askatasuna: a separatist armed movement that wanted to establish an independent, socialist Basque state.
³ Irish Republican Army: a paramilitary organisation that desires an island wide Irish state without connections to the United Kingdom.
⁴ NCTV 2017.
⁵ AIVD 2013.
However in 2009 a change could be observed in the left-wing activism and extremism: for example, antifascists and animal rights extremists increasingly joined forces. In addition, opponents of the asylum policy copied the modus operandi of animal rights extremists; they also started to daub, vandalise property, commit arsons and conduct ‘home visits’. Ever since, there has been a broad cooperation or at least mutual support.  

6) Incidents related to Muslim fundamentalism
Virtually all incidents of (expected) terrorist acts by Muslim fundamentalist in The Netherlands took place in 2004, during the intense period of the war in Iraq in which The Netherlands also participated. The most well known incident is the murder of film director and columnist Theo van Gogh on November 2nd, 2004. According to a court, the murder had to be considered as murder with a terrorist purpose; Van Gogh was known to be critical of the Islam and shot a film about it (Submission). Large-scale attacks like New York, London or Madrid haven’t occurred in The Netherlands yet.

7) Far-right extremism acts
The terrorist threat in The Netherlands in 2011-2015 was not just jihadist in nature, but also came from the far right. Fear of immigrants, the Islam and terrorist attacks contributed to a growth of right-wing extremism. Groups and individuals committed acts of violence against refugees, shelters and Muslims. In reaction to this, left-wing extremists also became more active. They sought confrontation with anti-Islam and anti-asylum groups.

In short, before 2004 attacks mainly came from left-wing extremists or anarchists. Although the groups responsible for these attacks did not grow into real terrorist underground movements, it is their actions and especially the governments’ reaction to them that form the basis for the current counterterrorism legislation. From 2004 and on attacks were often prepared or perpetrated by jihadists, however terrorist activities also came from other groups, such as right-wing extremists.

Since March 2013, the terrorists threat in The Netherlands is labelled as ‘substantial’; to be specific threat level 4 on a scale of 5. This means that the chance of a terrorist attack happening is real. However, there are no concrete indications that terrorists are preparing attacks in The Netherlands, although the extremist and terrorist threat is described as ‘variable and unpredictable’.

The threat from global jihadism is expected to increase further in the upcoming years, in the form of transnational networks, returning or travelling ‘foreign terrorist fighters’.

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6 A home visit is the phenomenon that protesters secretly (mostly at night) ‘pay a visit’ to their targets, mainly to directly intimidate them.
7 AIVD 2013.
8 NCTV 2016.
9 Van der Woude 2009.
10 AIVD 2017a.
11 NCTV 2016.
potentially violent individuals and processes of rapid domestic radicalisation. The threat is also becoming more transnational in nature: international developments have an increasingly direct impact on national security in the Netherlands and vice versa.

2.2 Definitions

In the Netherlands, all parties involved in counterterrorism use the following definition of terrorism:

“Terrorism is defined as threatening, making preparations for or perpetrating, for ideological reasons, acts of serious violence directed at people or other acts intended to cause property damage that could spark social disruption, for the purpose of bringing about social change, creating a climate of fear among the general public, or influencing political decision-making.”

This operational definition for terrorism is used for terrorism seen from a policy or strategic perspective. The legal definition of a terrorist crime is stated in article 83 and 83a of the Dutch Criminal Code (‘Wetboek van Strafrecht’, hereinafter: Sr).

Extremism is defined as:

“The phenomenon whereby individuals or groups who are motivated by a certain ideology engage in serious criminal behaviour or take actions that undermine the democratic legal order.”

Counterterrorism is defined as:

“Combating the extremist and terroristic threat facing The Netherlands.”

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12 NCTV 2016.
13 NCTV 2016.
14 NCTV 2017.
15 Article 83 Sr. A terrorist crime means:
1. each of the crimes described in articles ..., [enumeration of articles from the Dutch Criminal Code] ..., and article 80, second paragraph, Nuclear Energy Act, if the crime was committed with a terrorist aim;
2. each of the crimes that are made punishable by imprisonment pursuant to ... [enumeration of articles from the Dutch Criminal Code] ..., and and article 80, third paragraph, of the Nuclear Energy Act;
3. each of the crimes described in articles ... [enumeration of articles from the Dutch Criminal Code] ..., and in article 55, fifth paragraph, of the Weapons and Ammunition Act, article 6, fourth paragraph, of the Economic Offenses Act, article 33b of the Explosives for Civil Uses Act and article 79 of the Nuclear Energy Act.
16 Article 83a Sr. A terrorist aim means seriously intimidating a (part of a) population, or unduly compelling a Government or international organisation to perform, tolerate or abstain from performing any act, or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.
17 NCTV 2016, p.3.
18 NCTV 2016, p.5.
2.3 Most common forms of terrorism

The most common forms of terrorism in The Netherlands are described in paragraph 2.1. In the past they consisted of bombing attacks, arsons, murders, hijacks, hostage-takings, daubing, destructions and home visits.

Terrorist crimes by Muslim fundamentalists up until now are limited to the threatening of people criticizing Islam (in particular politicians like Geert Wilders and Ayaan Hirsi Ali), the murder of film director and columnist Theo van Gogh (see paragraph 2.1) and the threat and preparation of attacks. Large-scale terrorist attacks have not yet occurred.

The most well know example of ‘home-grown jihadism’ in The Netherlands is the so-called ‘Hofstadgroep’ (Hofstad group). This group, active between 2002 and 2005, consisted of approximately 40 (mainly male) juveniles from The Hague and Amsterdam that supported fundamentalist Salafist ideas. One of the participants committed the murder of Theo van Gogh. During one of the presentations following this murder, it once again became clear how violent the group was; a suspect threw a hand grenade at a SWAT team, injuring 5 police officers. In 2005 the remaining participants seemed to resume their activities. It appeared as though they were preparing multiple attacks on persons and buildings in The Netherlands.19

2.4 Profiles of juveniles suspected or accused of terrorism

As described in paragraph 2.1, the threat posed by various (potential) terrorist groups (Muslim fundamentalists, right-wing extremists, antifascists, animal right extremists and opponents of the asylum and foreigners policy) is complex and diffuse. It is impossible to describe ‘a terrorist’ in an unambiguous profile: terrorists and other extremist vary in age, ethnic background, education level and social situation.20

The same applies to minors in The Netherlands that are suspected or convicted of violent extremism or terrorism: relatively little is known about them.21 Research however indicates that there is not a single path towards radicalisation and extremism. Despite the public perception, poverty, religion or discrimination are not necessarily dominant factors. There is a multiplicity of causal factors: socio-psychological factors, social factors, political factors, ideological/religious factors, cultural and identity crisis, trauma and other trigger mechanisms, group dynamics, the presence of recruiters/groomers and the role of social media.22 Identity development plays an important role for juveniles and adolescents. In this phase, conflicts of authority and an absent father figure can also be of importance.23 If there is insufficient resilience for extreme messages, the phenomenon ‘trigger events’ is also relevant. These are events and developments that can lead to a ‘cognitive opening’ of young adults in particular, which can start, accelerate or reverse the process

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19 Schuurman 2017.
20 AIVD 2017b.
21 It is however known that the majority of Muslim fundamentalists are male and that relatively many Dutch Muslim fundamentalists are of Moroccan origin (AIVD 2017b).
of radicalisation. At micro level, the following trigger factors appear to play a role: confrontation with death, problems at home, job loss/school failure, direct experiences of discrimination, racism and exclusion, collisions with authorities and detention. At the meso level (the level of the group), these are trigger factors: breaking social bonds, meeting a radical person, joining a radical group, getting married, participating in training and the confrontation with propaganda. Trigger factors at macro level (societal, (inter)national level) are: calls for action, perceived attacks on the own group and government policy aimed at the own group or radicalisation.

It is clear that a number of minors in The Netherlands plan to travel to Syria or surrounding countries to participate in the armed jihad. Most of these possible jihad travellers are young (20-30 years old), but not minor. Nevertheless, minors (especially 15, 16 and 17 year olds) are among them. In case of a suspected minor traveller, child protection measures are a possibility. From February 2013 to March 2017, the Child Care and Protection Board (Raad voor de Kinderbescherming) investigated 81 of such cases. Of those concerned children in families, 35 were individual minors. No further information was published about their socio-demographic characteristics.

Furthermore, an estimated 80 children with a Dutch connection reside in conflict areas in Syria and Iraq, both with ISIS and other jihadist militant groups. Approximately half of them are boys. The majority of the children are staying with ISIS. About half of the Dutch children have been taken to the conflict zone by one or both parents; the other half was born there. Less than twenty per cent of the Dutch children are 9 years of age or older and, given that age, could have received military training. Life as a minor on ISIS territory is a life full of risks. These children can be considered to be ISIS’ first victims; they have likely been exposed to violence. They can also form a risk when returning to The Netherlands for various reasons. These minors are indoctrinated with the idea that The Netherlands (and the entire West) is the enemy. The most significant threat the Dutch society faces, are children who’ve received combat training in a jihadi training camp or gained direct combat experience.

Minors who actually stayed in the ‘caliphate’ are not the only ones who can be influenced by ISIS. Even children who’ve never travelled to or stayed in ISIS territory can threaten The Netherlands. ISIS is an opportunistic organisation, always looking for new possibilities. The use of minors in preparing and perpetrating terrorist attacks in Europa is conceivable, especially as it offers a potential tactical advantage. In general, children are considered less dangerous and are less likely to be searched or detained during checks. In 2016

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24 Feddes, Nickolson & Doosje 2015.
26 AIVD 2017b; De Jong – de Kruif 2014.
27 NCTV 2017b.
28 The actual number of children with a Dutch connection in Syria or Iraq is probably higher than 80. Many Dutch or non-Dutch women, travelled out and married to a Dutch man, become pregnant in Syria or Iraq.
29 NCTV & AIVD 2017.
31 NCTV & AIVD 2017.
32 NCTV & AIVD 2017.
there were minors that took inspiration from ISIS propaganda or followed instructions from ISIS fighters from Syria, for example through social media. Access to the Internet makes it easier for minors to come across ISIS propaganda at an increasingly young age. It is therefore a matter of concern that ISIS propaganda provides more and more specific directions on the modus operandi of perpetrating an attack. 

2.5 Counterterrorism policy and strategies

2.5.1 Involved organisations

Counterterrorism involves many government organisations; on central government level these contain the ministries, on other levels services like the General Intelligence and Security Service (Algemene Inlichting en Veiligheids Dienst, hereinafter: AIVD), the Military Intelligence and Security Service (Militaire Inlichtingen- en Veiligheidsdienst, hereinafter: MIVD), the police, the Public Prosecution Service (Openbaar Ministerie), the Royal Netherlands Military Constabulary (Koninklijke Marechaussee), the Immigration and Naturalisation Service (Immigratie- en Naturalisatie Dienst, hereinafter: IND) and customs. At local level, municipalities play an important role. In addition, coordination takes place with other governments, civic organisations, companies, influential individuals (‘key figures’) and international organisations, such as the European Union and the United Nations. The fact that many players are actively involved in counterterrorism calls for cohesion, coordination and harmonisation. The National Coordinator for Security and Counterterrorism (de Nationaal Coördinator Terrorismebestrijding en Veiligheid, hereinafter: NCTV) coordinates the fight against terrorism in the Netherlands, under the responsibility of the Minister of Security and Justice. 

The starting point for the NCTV is that terrorism needs to be prevented and combated, regardless of the ideological background. Counterterrorism focuses on the prevention of terrorist attacks and taking away the breeding ground for terrorism and extremism. Furthermore the government is preparing to limit the consequences of an attack in or against The Netherlands as much as possible – should it occur.

The National Counterterrorism Strategy 2016-2020 connects all government partners in a comprehensive approach to extremism and terrorism in The Netherlands. The strategy draws on the National Counterterrorism Strategy 2011-2015 and its evaluation. It is further based on the anticipated threat situation for 2016-2020, as well as the knowledge and experience gained by the authorities in recent years.

NCTV & AIVD 2017.
NCTV 2017.
NCTV 2017.
NCTV 2016.
2.5.2 Strategic principles

The strategic principles, as set by the NCTV for the next five years, are as follows:

- **Set level of measures** – organisations maintain a set level of policy-related, operational and administrative measures (fixed measures), supplemented with flexible measures if needed to cope with a changed threat situation. Changes in the extremist and terrorist threat are described in the Terrorist Threat Assessment for The Netherlands (Dreigingsbeeld Terrorisme Nederland, hereinafter: DTN) and in scenarios. The DTN is based on information from intelligence and security services, the police, public sources, foreign partners and analyses by embassy staff. Flexible measures are formulated in interdepartmental programs and project plans with a set timetable. Eventually, these flexible measures can become fixed measures, provided they prove to be adequate for tackling the changed threat.

- **Threat based approach** – organisations base their priorities on the current threat level, focusing on the jihadist threat, nonetheless without losing sight of other forms of extremism.

- **Comprehensive approach** – organisations focus on prevention, repression and aftercare measures while they work closely together from different disciplines.

- **International = national** – organisations recognise that international, national and local dimensions of extremism and terrorism are intertwined and respond to that by cooperating effectively on all levels: local, national and international.

- **A local approach** – organisations translate the comprehensive approach to the local level, with the use of multidisciplinary consultations in examining specific cases, fostering community engagement and keeping vulnerable groups and individuals ‘on the right path’ as cornerstones.

- **Digital means** – organisations adjust to the use of digital means by extremists and terrorists, such as social media, the dark web and encryption.

- **Explicit and implicit communication** – organisations communicate in a well-considered, balanced and objective manner, increase societal resilience and promote social inclusion.

- **Network- and individual-oriented approach** – organisations map networks and aim to disrupt them. They tackle radicalisation on a case-by-case, individual basis, because it needs a tailored approach.

- **Rule of law** – all measures have a legal basis, are proportional and respect fundamental rights.

- **Aligning with social strategies** – organisations enhance coherence between policy focused on combating polarisation and promoting social cohesion and policy focused on fighting extremism and terrorism.

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37 NCTV 2016.
2.5.3 Strategic framework

The NCTV indicates five areas of interventions. In all these areas, the dynamic process of the evolving threat recurs. A strategic, policy-based approach to address the process must be coordinated through multidisciplinary cooperation (also see paragraph 2.5.1).

The five areas of intervention are:

1. Procure: to gather and assess intelligence in a timely manner about (potential) threats to the Netherland and its interests in foreign countries;
2. Prevent: to prevent and to disrupt extremism and terrorism and to avert attacks;
3. Protect: to protect people, objects and vital processes against extremist and terrorist threats, both physical and online;
4. Prepare: to be optimally prepared for extremist and terrorist violence and its consequences;
5. Pursue: to enforce the rule of law in the face of extremism and terrorism.

2.6 General status of extremist criminality concerning juveniles (under 18)

The number of minors suspected or convicted of violent extremism or terrorism is unknown. As a reference point, paragraph 3.3.4 describes court rulings on minors published in The Netherlands, who have been convicted of violent extremism and terrorism. Additionally, an estimated number of at least 80 children with a Dutch connection reside in conflict areas in Syria and Iraq, both with ISIS and other jihadist militant groups. About half of them are boys. From February 2013 to March 2017, the Child Care and Protection Board has investigated 81 cases of possible minor jihadist travellers. 46 of those concerned children in families, 35 were individual minors.

Minors are prevented from travelling to Syria and other countries to join the armed jihad in several ways and by different authorities. Minors with plans to travel out are subject to discussion in multidisciplinary consultations in Safety Houses, in which the various chain partners outline a possible approach; for example, further research by the Child Care and Protection Board or judicial measures that lead to passport withdrawal or cancellation. Another possibility is a criminal investigation into people suspected of recruiting minors. If necessary, a child protection measure is taken. The most commonly used measure is a family supervision order, which aims to avert the threat to the child’s interests or health, by providing help and support (through a family supervisor). Another possibility is placing the minor in a facility for secure youth care.

When a minor returns from jihadist conflict areas, the authorities consider what care,
security measures and interventions are appropriate\textsuperscript{44}, always on a case-by-case individual basis. The Child Care and Protection Board inquires whether or not the minor is already subject to help and, if necessary, may decide to start a council inquiry. At the same time, care and security partners draw up a treatment plan in a multidisciplinary case consultation that safeguards the safe development of the minor and counteracts any safety risks. The school on which the minor is placed is included in a joined consultation, that defines the best possible education for the minor and what kind of support the school needs. Also, arrangements are made considering shelter and the possible necessity of a child protection measure.

3. National legislation in the counterterrorism context

3.1 Evolution of legislation on countering terrorism

Only just recently The Netherlands started prioritising the development of legislation on counterterrorism. Although there definitely had been terrorism in the past, this did not lead to specialised legislation aiming to combat or criminalise it. The Netherlands dealt with political violence in the 1970’s and 1980’s\textsuperscript{45}, which would now be labelled as terrorism. In response to the Moluccan train hijacks in The Netherlands and the attacks of terrorist organisation \textit{Black September} during the Olympics in Germany, counterterrorism policy was drafted. This policy (called the \textit{Dutch Approach}) had the basic principle of avoiding violence at all times and striving towards communication and consultation. A letter from the Prime Minister (referred to as the terror letter) named a few measures to combat terrorism. In this letter, the Dutch government commits itself to caution when it comes to counterterrorism measures, because too drastic measures could inflict damage to the open character of Dutch society. Nothing is stated about modifying the Criminal Code or the introduction of legislation on counterterrorism.\textsuperscript{46} The Dutch government was convinced the existing system offered enough possibilities to punish terrorist crimes.\textsuperscript{47}

All of this changed after the Twin Towers and Pentagon attack in the United States at 11 September 2001. Shortly after, the Dutch government drafted the ‘Plan of action for counterterrorism and safety’ (\textit{Actieplan terrorismebestrijding en veiligheid}), announcing a set of measures to intensify the battle against terrorism. After the attacks in Madrid in 2004, London in 2005 and the murder of film director Theo van Gogh in 2004, the legislation process for counterterrorism was accelerated.

3.2 National legislation connected to terrorism and/or violent extremism issues implemented in The Netherlands

In recent years increasing attention has been paid to counterterrorism in The Netherlands. A series of laws were established, the most important of which are set out below.

\textsuperscript{44} Ministry of Security and Justice, 2017.
\textsuperscript{45} Perpetrated by organisations such as the Red Youth, the RaRa and the South-Moluccans.
\textsuperscript{46} Proceedings House of Representatives 1972-1973, National budget for the year of service 1973, Appendix 12000, Chapter VI Justice, no. 11.
\textsuperscript{47} Van der Woude 2009, p. 5-9.
3.2.1 Terrorist Crimes Act

In 2004 the Terrorist Crimes Act (Wet terroristische misdrijven) came into force.\(^{48}\) With this law, a EU framework decision was implemented in Dutch legislation.\(^{49}\) The EU framework decision requires EU member states to ensure that a number of acts are qualified as terrorist crimes if they are committed with a terrorist aim.\(^{50}\)

Member states must impose a higher penalty on these terrorist offences, in accordance with the seriousness of the facts.\(^{51}\)

Additionally, according to the EU framework decision, EU member states are to ensure participating in or directing a terrorist group is punishable.\(^{52}\) According to the EU framework decision, participating in a terrorist organisation should be punishable with a maximum sentence of eight years imprisonment and the maximum sentence for directing a terrorist organisation must be set at fifteen years.\(^{53}\) The Netherlands increased these maximum sentences. Participating in a terrorist organisation is punishable with a maximum sentence of fifteen years, directing one can lead to a life sentence imprisonment or imprisonment up to thirty years.\(^{54}\)

The Netherlands implemented the obligations from the EU framework decision, but also included two additional punishments in national law, that don’t follow from the decision. These concern the criminalisation of recruiting for the jihad\(^{55}\) and conspiring to commit acts of terrorism.\(^{56}\) According to the legislative history, recruiting can be explained as ‘approaching people in schoolyards, clubhouses and places of entertainment or to manipulate someone through the use of communication resources, such as a website, with the aim to persuade them to participate in the jihad’.\(^{57}\)

The criminalisation of recruiting refers to the act of recruiting in itself. It is not important whether the recruitment was successful or how the person that is recruited already felt about the jihad at the time of recruitment.\(^{58}\) The criminalisation of conspiring only refers to conspiring to commit acts of terrorism that, upon completion, can lead to a lifelong sentence imprisonment. The criminalisation of conspiring alone clearly expresses that terrorist crimes have to be regarded as the most severe crimes of all. Also, for reasons of combating

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\(^{49}\) EU framework decision 2002/475/JBZ.

\(^{50}\) A terrorist aim is described in the EU framework decision as ‘the aim of seriously intimidating a population, or unduly compelling a government or international organisation to perform or abstain from performing any act, or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.’ Article 83a of the Dutch Criminal Code uses a definition almost identical to the EU framework decision.

\(^{51}\) Parliamentary Documents II 2001/02, 28 463, no. 3, p. 2; Van der Woude 2012, p. 10.

\(^{52}\) A terrorist group is ‘a structured group of more than two persons acting in concert to commit terrorist offences’.

\(^{53}\) Articles 83 and 83a Sr set out terrorist crimes and the required terrorist purpose. Participating in a terrorist organisation is criminalised in art. 140a Sr.

\(^{54}\) Art. 140a par. 1 in conjunction with par. 2 Sr.

\(^{55}\) Art. 205 Sr.

\(^{56}\) Art. 96 Sr.

\(^{57}\) Parliamentary Documents II 2002/03, 28463, 8, p. 4; Parliamentary Documents II 2003/04, 28463, 10, p. 11, 16.

terrorism and punishing as effectively as possible, the Dutch government sees reason to criminalise conspiring to commit acts of terrorism, seeing that it is quite conceivable that in certain cases a judge has insufficient evidence for participating in a terrorist organisation or criminal preparation of a terrorist offence, but enough for conspiracy.\textsuperscript{59}

\subsection*{3.2.2 Witness Identity Protection Act}

In 2006 the Witness Identity Protection Act (\textit{Wet afgeschermde getuigen}) came into force.\textsuperscript{60} This law was the result of a couple of terrorism cases in which official reports of the AIVD formed an important part of the evidence.\textsuperscript{61} In these cases, the court ruled that information gained from the reports could not be used as evidence, because it was difficult to determine their degree of truthfulness.\textsuperscript{62} Shortly after these rulings, the Witness Identity Protection Act was adopted with the purpose of increasing the usefulness of information from official AIVD reports in criminal proceedings.\textsuperscript{63} The core of the Witness Identity Protection Act is that the examining magistrate, as an independent investigating judge, examines the truthfulness of the official AIVD reports and, if necessary, is able to supplement and specify the information by hearing the involved AIVD officer behind closed doors as a protected witness.\textsuperscript{64} On the condition that the AIVD officer gives his consent, the examining magistrate draws up an official report of the hearing, which is added to the criminal file. If the AIVD officer feels including certain information in the official report or adding the official report to the criminal file could be harmful to state security, he can refrain from consenting. This so-called right of consent is founded on the idea that ultimately, the AIVD itself will always know best whether disclosure of information can be harmful to state security.\textsuperscript{65}

\subsection*{3.2.3 Investigation and Prosecution of Terrorism (Extended Powers) Act}

In 2007 the Investigation and Prosecution of Terrorism (Extended Powers) Act (\textit{Wet ter verruiming van de mogelijkheden tot opsporing en vervolging van terroristische misdrijven}) came into force.\textsuperscript{66} This law aims to enable the police and Public Prosecutions Service to use criminal procedures at the earliest possible stage to prevent terrorist attacks.\textsuperscript{67} The use of special investigative powers in case of terrorism no longer requires a reasonable suspicion of guilt. Indications are sufficient. An indication means that the available

\begin{footnotesize}
\begin{itemize}
\item[\textsuperscript{59}] Keulen 2005, p. 98-100.
\item[\textsuperscript{60}] Stb. 461, 2006.
\item[\textsuperscript{61}] The AIVD has (among other) the following statutory tasks: ‘investigating individuals or organisations, that because of the goals they pursue or their activities, give rise to the serious suspicion of endangering the continued existence of the democratic legal system or the safety or any other vital interests of the state, art. 6 par. 2 sub a of the Intelligence and Security Services Act 2002 (hereinafter: Wiv 2002). Although the AIVD is not particularly engaged in investigating criminal offences, it does occur that the AIVD, while exercising their tasks, comes across criminal acts. In that case, the AIVD has the possibility to send an official report to the Public Prosecution Service. Based on the information obtained from the AIVD, the Public Prosecution Service can start a criminal investigation, also see art. 9 in conjunction with art. 38 par. 1 Wiv 2002.
\item[\textsuperscript{63}] Parliamentary Documents II 2003/04, 29 743, no. 3, p. 1.
\item[\textsuperscript{64}] Van der Woude 2012, p. 11.
\item[\textsuperscript{65}] Krips 2006, p. 831-833.
\item[\textsuperscript{66}] Stb. 580, 2006.
\item[\textsuperscript{67}] Parliamentary Documents II 2004/05, 30 164, no. 3, p. 2.
\end{itemize}
\end{footnotesize}
information, facts and circumstances indicate that a terrorist offence actually already happened or will be committed. Indications can follow from information coming from anonymous tips, AIVD threat analyses, but also from hard-to-verify rumours that an actual attack is being prepared or that people are conspiring to. According to the Dutch government, this kind of information must give rise to the possibility of using special investigation powers. During the investigation of terrorist crimes, the key element is not only to solidify a reasonable suspicion, but at least as much to prevent terrorist attacks.

The special powers that can be deployed in case of indications are the following:
- a widening of powers to collect information through an exploratory investigation;
- a widening of powers to search persons without concrete suspicion of a criminal offence;
- a widening of possibilities to use special investigation powers such as systematic observation and telephone tapping;
- allowing a suspect’s remand in custody on suspicion of a terrorist offence, even without grave presumptions;
- the possibility of postponing full access to procedural documents.

3.2.4 Criminalisation of participating and cooperating in training for terrorism

In 2009, participating and cooperating in training for terrorism was penalised. To this end, article 134a of the Criminal Code was introduced, stating: ‘He, who provides or attempts to provide himself or someone else with opportunity, resources or intelligence with the purpose of perpetrating, preparing or facilitating a terrorist offence, or he who acquires knowledge or skills or teaches someone else to this end, is punished with imprisonment of up to eight years or a fine of the fifth category.' This phrasing shows that the intent of the perpetrator has to be focused on using the acquired knowledge or skills for perpetrating, preparing or facilitating a terrorist crime. Reason for this separate criminalisation is that it was conceivable that the existing penal provisions would not always be sufficient to result in a conviction.

3.2.5 Criminalisation of financing terrorism

In 2010 the Financial Action Task Force (FATF) evaluated the Dutch policy and legislation on countering money laundering and financing terrorism. The FATF criticised the Dutch criminalisation of financing terrorism, because it wasn’t penalised separately. The FATF recommendation was therefore to criminalise the financing of terrorism independently and to position the offence separately in legislation, in order to make it a recognisable criminal offence that The Netherlands could be accosted for. The

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68 Parliamentary Documents II 2004/05, 30 164, no. 3, p. 10.
69 Parliamentary Documents II 2004/05, 30 164, no. 3, p. 9; Parliamentary Documents II 2005/06, 30 164, no. 7, p. 14; Parliamentary Documents II 2005/06, 30 164, no. 12, p. 5.
71 The FATF is an independent intergovernmental authority that develops and enhances policy for protection of the global financial system against money laundering, financing terrorism and financing weapons of mass destruction.
72 Financing acts of terrorism used to be punishable under Dutch law according to the penal provisions on preparing a serious crime, art. 46 Sr.
Netherlands followed this recommendation and penalised financing terrorism in article 421 of the Criminal Code,\textsuperscript{73} together with the Criminal Code of the BES islands.\textsuperscript{74}

\textit{3.2.6 Interim Act on Administrative Measures against Terrorism}

In February 2017 the Interim Act on Administrative Measures against Terrorism (\textit{Tijdelijke wet bestuurlijke maatregelen terrorismebestrijding}) came into force.\textsuperscript{75} This law sets out administrative measures in the context of counterterrorism. It will be further discussed in chapter 4.

\textit{3.2.7 Statute Law on Amending the Passport Act}

In February 2017 the Statute Law on Amending the Passport Act (\textit{Rijkswet tot wijziging van de Paspoortwet}) came into force.\textsuperscript{76} The amendments included in this law, are related closely to the Interim Act on Administrative Measures against Terrorism. The first amendment contains the revoking ipso jure of travel documents belonging to individuals on whom a travel ban has been imposed on the grounds of the Interim Act on Administrative Measures against Terrorism.\textsuperscript{77} The second amendment enables the refusal of a new passport or Dutch ID card to individuals whose original travel document has been revoked.\textsuperscript{78} The third amendment concerns the provision of a replacement ID card on request to individuals whose passport or Dutch ID card has been revoked, in order for them to be able to identify themselves.\textsuperscript{79} The replacement ID card is explicitly not meant to be used outside the Schengen area. The Netherlands has informed other EU countries, Schengen countries and Turkey about the new replacement ID card and its restrictions.\textsuperscript{80}

\textit{3.2.8 Statute Law on Amending the Dutch Nationality Act in Connection with the Withdrawal of Dutch citizenship in the Interest of National Security}

In February 2017 the Statute Law on Amending the Dutch Nationality Act in Connection with the Withdrawal of Dutch citizenship in the Interest of National Security (\textit{Rijkswet houdende de wijziging van de Rijkswet op het Nederlanderschap in verband met het intrekken van het Nederlanderschap in het belang van de nationale veiligheid}) was amended so, that the Dutch citizenship of an individual older than sixteen who resides in a foreign country, can be withdrawn in the interest of national security, if it becomes apparent\textsuperscript{81} that the person has joined a terrorist organisation.\textsuperscript{82} Upon return this person poses a threat to national security, which is why their return journey has to be avoided. This can be achieved by withdrawing their Dutch citizenship and, at the same time, declaring

\textsuperscript{73} \textit{Stb.} 292, 2013.  
\textsuperscript{74} Art. 435e Sr BES; The BES islands consist of Bonaire, Saba and Sint Eustatius. These are special municipalities of The Netherlands.  
\textsuperscript{75} \textit{Stb.} 51, 2017.  
\textsuperscript{76} \textit{Stb.} 53, 2017.  
\textsuperscript{77} Art. 47 par. 1 sub i Passport Act.  
\textsuperscript{78} Art. 23b Passport Act.  
\textsuperscript{79} Art. 17 Passport Act.  
\textsuperscript{80} \textit{Parliamentary Documents II} 2015/16, 34 358 (R2065), no. 3, p. 9.  
\textsuperscript{81} For example, on the basis of information gained by the AIVD or the Public Prosecution Service and on the basis of information obtained on the internet.  
\textsuperscript{82} \textit{Stb.} 2017, 52; art. 14 par. 4 Dutch Nationality Act.
them to be an undesirable foreign national, provided that they have dual nationality. Because of the withdrawal of Dutch citizenship and the declaration of an undesirable foreign national, a legal and actual return is made very hard. A criminal conviction is not required to withdraw Dutch citizenship, since it might be dangerous to wait until an individual has returned and has been convicted, particularly because of the immediate threat to national security. Once Dutch citizenship is lost, in principle it can’t be regained. Also, according to the legislative history, there is no decisive importance attached to an individual’s age when withdrawing citizenship. Minority however can be taken into account when assessing proportionality, especially in case of additional circumstances such as a great sensitivity to the influence of others.

This only applies to minors who joined a terrorist organisation voluntarily, not to those travelled out with their parents.

3.3 National legislation connected to the specific needs of juveniles (under 18), suspected or accused of violent extremism or terrorism

3.3.1 The Dutch juvenile criminal law system

The Netherlands has no legislation specifically designed for minors suspected or accused of violent extremist or terrorism. These minors are prosecuted and punished according to the Criminal Code, which however does contain some provisions regarding minors and adolescents. The main rule is that these provisions apply to minors aged twelve to eighteen years old. Minors younger than twelve years old can’t be criminally charged according to Dutch criminal law, because they are considered not to be criminally responsible because of their age.

3.3.2 The application of adult criminal law on sixteen and seventeen year olds

According to the Dutch juvenile criminal law system, a court may decide not to apply juvenile criminal law on a sixteen or seventeen year old and instead impose an adult sentence. A judge can come to that decision based on (a) the seriousness of the committed offences, (b) the personality of the perpetrator or (c) the circumstances in

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83 On the basis of article 67 of the Aliens Act 2000; withdrawal of the Dutch citizenship can only be done in case of dual nationality, to prevent people from becoming stateless.
84 Parliamentary Documents II 2015/16, 34 356, no. 3, p. 3.
86 Art. 14 par. 5 Dutch Nationality Act.
88 Titel VIII A Sr.
89 Art. 486 Code of Criminal Procedure (hereinafter: Sv). Cf. art. 77a Sr.
90 Art. 486 Sv; It is however possible to use a limitative number of investigative means and coercive measures on minors younger than twelve years old. Only the police and judicial authorities can apply these coercive measures. Minors younger than twelve can be stopped and questioned, arrested, searched and detained for investigation or heard and objects they own can be seized, see art. 486-509 Sv.
91 Art. 77b Sr; It is also possible to apply juvenile criminal law on adults aged eighteen to twenty-three, in case the court sees reason for that in the personality of the perpetrator or the circumstances in which the crime is committed, art. 77c Sr.
which the crime is committed. Minors can’t be sentenced to a lifelong imprisonment. However, it is possible to convert a 'PIJ-measure' into detention under a hospital order.

### 3.3.3 Number of minors suspected or convicted of violent extremism and terrorism

There are no exact figures about the number of minors suspected or convicted of violent extremism and terrorism. To find a reference point, the number of court rulings on minors convicted of violent extremism or terrorism has been examined. This concerned only four cases between January 2001 and July 2017.

The schedule below shows what crimes the minors were convicted of and the imposed sentence.

<table>
<thead>
<tr>
<th>CRIMINAL OFFENCE</th>
<th>PUNISHMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incitement to perpetrating terrorist crimes by placing messages on Twitter and spreading them.</td>
<td>Two weeks in juvenile detention, one of which was conditional.</td>
</tr>
<tr>
<td>Attempted participation in an organisation that aimed to perpetrate terrorist crimes.</td>
<td>Twelve months' juvenile detention, eight months conditional and a community sentence of 120 hours.</td>
</tr>
<tr>
<td>Preparing to participate in terrorist organisation IS.</td>
<td>Suspended juvenile detention, including the condition that the minor talked to a theologian, to prevent further radicalisation.</td>
</tr>
<tr>
<td>Preparing a terrorist attack, threatening Members of Parliament Hirsi Ali and Wilders and incitement.</td>
<td>140 days juvenile detention and a PIJ measure.</td>
</tr>
</tbody>
</table>

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92 Art. 77b par. 2 Sr.
93 PIJ stands for placement in an institution for juveniles. The PIJ measure can be used for minors that committed a serious crime and suffer from a psychiatric disease or disorder. The minor is then placed in a youth custodial institution to be treated.
94 Art. 77tc Sr; TBS stands for detention under a hospital order. TBS is a treatment measure a judge poses on a person that committed a serious crime and suffers from a psychiatric disease or disorder. This person is then placed in a TBS clinic to be treated; for this treatment, no maximum period of time is determined.
95 For this, www.rechtspraak.nl was used. On this website, court rulings are published anonymously. Please note that this is a selection and not a representation of all court rulings. For this research, the following keywords have been used while searching: minor & radicalisation; minor & terrorism; minor & terrorist; child & terrorism; child & radicalisation; Islamic State & minor and minor & ISIS.
3.3.4 The placement of minors suspected or accused of violent extremism

In September 2006, The Netherlands opened its first maximum-security wings for terrorists in penal institutions in Vught and Rotterdam. The purpose of the maximum-security wings is to concentrate all prisoners with a terrorist background (that may have a radicalising effect on their fellow inmates) in one place. A person is placed in the maximum-security wing for terrorists after suspicion or conviction of a terrorist crime or if this person put forward or spread a message of radicalisation before or during his detention, unless there is information that placement in the maximum-security wing is not appropriate.96 Minors can also be placed in the maximum-security wing, together with adults. This led to a lot of criticism on the draft of the regulation. The Council for the Administration of Criminal Justice and Protection of Juveniles (Raad voor Strafrechtstoepassing en Jeugdbescherming, hereinafter: RSJ) wrote in its advice to the Minister of Security and Justice that article 37c of the Convention on the Rights of the Child (CRC) only allows the placement of juveniles and adults together when it is in the child’s best interest. The RSJ stated placing juveniles and adults together in the maximum-security wing does not respect this provision. Despite the RSJ’s criticism, the regulation has not been altered. According to the evaluation of the maximum-security wing for terrorists, executed in 2010 by the University of Groningen and the Research and Documentation Centre, only two minors were selected for placement in the maximum-security wing. However, this was not carried through, because the Public Prosecution Service considered the detention climate on the wing unsuitable.97

3.4 National policy and strategies connected to the terrorism issue

After the terrorist attacks in the United States in 2001, The Netherlands drafted policy on counterterrorism. The most important policy documents are outlined below.98 Once again, there is no specific policy regarding minors.

3.4.1 Counterterrorism and Safety Action Plan

In October 2001, the Dutch government presented the Counterterrorism and Safety Action Plan (Actieplan Terrorismebestrijding en Veiligheid). This action plan contains a set of measures to prevent terrorism. On the one hand, the measures have a preventive nature. For example, there are measures that enable a higher level of intelligence gathering, analysis, sharing and spreading as well as measures containing monitoring and protecting vulnerable sectors and persons. On the other hand, the action plan contains measures focused on increasing the chance of the arrest and successful prosecution of already committed terrorist crimes. This involves the investigation, prosecution and termination of criminal offences. An important aspect of the action plan, is that it not only focuses on acts of terrorism, but also on crimes that facilitate terrorism, such as money.

96 Art. 20a of the Selection, placement and transfer of detainees Regulation.
97 Veldhuis e.a., 2010, p. 119.
98 This list is not exhaustive.
laundering, drug trafficking and trade in or use of weapons. The plan names 43 points of action, that each should provide an increased level of safety. Some examples are: the development of possibilities for biometric identification, extra safety measures on airports and a widening of powers for the AIVD.

3.4.2 Counterterrorism database

The Dutch government created the Counterterrorism database (CT Infobox) in 2004. The Counterterrorism database is a cooperation between the AIVD, the Fiscal Intelligence and Investigation Service and Economic Investigation Service (FIOD-ECD), the Immigration and Naturalisation Service (IND), the Central Unit of the National Police, the Royal Netherlands Military Constabulary, the MIVD and the Public Prosecution Service. It collects information from various organisations on networks and persons one way or another involved in terrorism, and joins it together in one place. Its job is to advise the partnership or third parties on the desirability of disclosing information or the possibilities to take intelligence based measures or measures under criminal, immigration or administrative law.

3.4.3 Polarisation and Radicalisation Action Plan

In 2007, the Dutch government drafted the Polarisation and Radicalisation Action Plan (Actieplan polarisering en radicalisering) after the attack on the Dutch film director Theo van Gogh. The action plan contains preventive, proactive and repressive measures. The objective of the action plan is threefold. First of all, the prevention of (further) processes of isolation, polarisation and radicalisation by (again) including people who are likely to slip or turn away from Dutch society or the democratic legal system.

Second, identifying these processes at an early stage by administrators and professionals and the development of an adequate approach. Third, the exclusion of those who crossed clear boundaries and make sure their influence on others is limited.

3.4.4 Action program on the Comprehensive Approach of Jihadism

The Action program on the Comprehensive Approach of Jihadism was presented in August 2014, and gives an overview of existing, strengthened and new measures and actions to combat terrorism. The objective of the plan is threefold: to protect the democratic state under the rule of law, to combat and weaken the jihadist movement in The Netherlands and to take away the breeding ground for radicalisation. A comprehensive approach is set out along five policy lines: (1) risk reduction, (2) intervention, (3) the approach of radicalisation and societal tension, (4) social media and (5) exchange of intelligence and (international) cooperation.

100 See action points 1, 3 and 8.
3.4.5 National Counterterrorism Strategy 2016-2020

The National Counterterrorism Strategy 2016-2020 (hereinafter: national CT strategy) intends to unite all government partners in a joint approach of extremism in The Netherlands. The national CT strategy is based on the so-called ‘comprehensive approach’: a combination of measures (both preventive and repressive) in order to identify and intervene the risks of terrorism at the earliest possible stage. The principle is to maintain a set level of policy, operational and administrative measures, complemented by flexible measures if necessary to respond to the current threat level. The national CT strategy describes the approach over the next five years.

3.4.6 National Coordinator for Counterterrorism and Security

In 2011 the National Coordinator for Counterterrorism and Security (NCTV) was appointed. The NCTV is part of the ministry of Security and Justice and has the following main tasks:

- analysing and reducing identified threats;
- providing surveillance and protection for persons, property, services, events and vital sectors;
- ensuring cyber security;
- making property, individuals, sectors and networks more resistant to threats;
- ensuring effective crisis management and crisis communication.103

Four times a year, the NCTV publishes the Terrorist Threat Assessment for The Netherlands (Dreigingsbeeld Terrorisme Nederland, hereinafter: DTN). The DTN outlines the main threat developments in general and the current threat level in The Netherlands.104 The DTN shows that currently the main threat to The Netherlands is the jihadist threat. The Dutch jihadist movement comprises at least a few hundred persons.105 Up to June 1st 2017, approximately 280 individuals have travelled out to Syria and Iraq.

The number of individuals from The Netherlands that are staying in Syria and Iraq with jihadist purposes is approximately 190. It is still very likely that a considerable number of Dutch jihadists wish to join IS or another terrorist organisation. A total of 50 travellers have returned to the Netherlands, about 45 have died.106 The aforementioned numbers do not distinguish between minors and adults.

In April 2017, the NCTV published the report ‘The Children of ISIS’ in cooperation with the AIVD. This report shows that at least 80 children with a Dutch connection107 reside in Syria and Iraq, both with ISIS and other jihadist militant groups. The majority of the children are with ISIS. About half of the Dutch children have been taken to the conflict

104 See: https://www.nctv.nl/organisatie/ct/dtn/over_dtn/index.aspx (last seen 5 July 2017); the actual threat level in The Netherlands is 4 on a scale of 1 to 5, which means the threat is substantial.
105 Idem, p. 3.
106 Idem, p. 4.
107 Meant with a ‘Dutch connection’ is: having one or two parents with Dutch nationality or parents that lived in The Netherlands for an extended period of time.
zone by one or both parents; the other half was born there. Less than twenty per cent of the Dutch children are 9 years of age or older and therefore, given their age, could have received military training. Thirty per cent of the Dutch children are aged 4 to 8 years old and 50 per cent are 3 years or younger.

The actual number of children with a Dutch connection in Syria or Iraq is probably higher than 80, because many Dutch or non-Dutch women, travelled out and married to a Dutch man, become pregnant in Syria or Iraq.108

3.5 Preventive programs or alternative measures for juveniles to combat terrorism

In the Netherlands, several programs have been established to prevent juveniles from radicalisation or to turn the process around. Some examples: a telephone helpline (for parents) in case of radicalisation, professional development of mosque teachers, the strength of fathers, building bridges through intergenerational consults and the Diamond training.109 This last intervention will be explained in the next paragraph because it is one of the most developed interventions against radicalisation in The Netherlands.

3.5.1 The Diamond Training

The Diamond training (Diamant training) is developed by the Intercultural Participation and Integration Foundation (Stichting Interculturele Participatie en Integratie). The scheme below shows an overview of the most important information.110

<table>
<thead>
<tr>
<th>PROJECT TITLE</th>
<th>DIAMOND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Family or social environment, school, inside or outside detention, the (Muslim) community or a municipality.</td>
</tr>
<tr>
<td>Duration</td>
<td>Three months.</td>
</tr>
<tr>
<td>Key words</td>
<td>Juveniles with a non-western background, identity problems, radicalisation, increasing competences, binding with society.</td>
</tr>
<tr>
<td>Background</td>
<td>Some juveniles with non-western backgrounds can't seem to find balance between self-esteem, autonomy and individuality on the one hand and being connected to their own ethnic cultural background and the Dutch society on the other. These juveniles struggle with their dual identity, which can cause confusion about their self-image, making them extra vulnerable for radicalisation.</td>
</tr>
</tbody>
</table>

109 See for a more extensive description of this and other examples ‘Preventie van radicalisering. Praktijkvoorbeelden van aanpakken gericht op kwetsbare jongeren die vatbaar zijn voor radicalisering’ (not available in English), a publication on prevention of radicalisation including practical examples of approaches focused on vulnerable juveniles susceptible for radicalisation by the Platform Integration and Society.
### Objectives
Increasing self-confidence; development of empathy and the ability to take on the perspective of others; development of own identity; reducing the feeling of being treated unfairly; reducing negative emotions; learning to set goals; dealing with intercultural conflicts and discrimination; improving social skills; increasing the bond with society (for example through education, internships and work) by expanding the juveniles’ network.

### Target groups
Juveniles with non-western background aged 12 to 27 years, who struggle with their dual identity, causing them to be at higher risk for radicalisation. In addition, parents/caregivers and other individuals important to the juvenile may be enrolled in the training.

### Strategy and activities
The Diamond training addresses problems juveniles experience in daily life. They receive information and assignments and are coached and trained on domains such as competences, dual identity and malicious ideology. During the training they look for a job (on the side), an internship, (further) education or they graduate. In addition to the group-oriented training, there is also an individual approach. By using a diagnostic instrument, the degree of alienation, possible radicalisation, related problems and the needs of the juvenile are determined. The individual approach also includes the juvenile’s family and relevant networks. The training ends with a competence assignment. This is a group activity chosen and organised by the juveniles, such as a presentation, an interview with juveniles in the neighbourhood or a group discussion with representatives from the municipality. When the Diamond training is completed, the juveniles are provided with aftercare, to prevent them from relapsing.

### Partners
Municipalities, police, (juvenile) detention centres, compulsory education, HALT (a Dutch organisation which aims to prevent and combat juvenile crime), probation, the Child Care and Protection Board, Safety Houses, schools, care, reintegration and child protection services.

### Budget
The Diamond training is a form of healthcare that can be purchase on the basis of individual training or group intervention. The exact costs are unknown, but can be retrieved from Stichting Interculturele Participatie en Integratie (the Intercultural Participation and Integration Foundation).

### Results
The Diamond training has been evaluated twice. In the evaluation studies, performed by the University of Amsterdam, researchers concluded that the Diamond training is effective for radicalised persons and thoughts. The second evaluation study evaluated the first pilot of the Diamond training that focused on (extremely) orthodox Muslim girls. A.G. Advies performed the evaluation study. It showed that the girls went through a process of (personal) identity development, in which they gained skills and competences to make them more assertive and enable them to make personal, informed choices.
4. Administrative measures in the counterterrorism context

The administrative measures on counterterrorism are laid down in the Interim Act on Administrative Measures against Terrorism (Tijdelijke wet bestuurlijke maatregelen). The measures can be subdivided in two categories: imposing measures restricting a person’s freedom and the refusal or withdrawal of subsidy, licenses, exemptions and acknowledgements.

4.1 Measures to restrict a person’s freedom

Measures to restrict a person’s freedom can be imposed on people that, due to their personal behaviour, can be linked to terrorist activities or facilitating them. To protect national security, the Minister of Security & Justice can impose a measure to restrict a person’s freedom, consisting of an area ban, a restraining order, a duty to report or a travel ban.

4.1.1 Area ban and restraining order

When the threat posed by an individual targets a particular area, an area ban may be imposed. The ban can mean the person involved is prohibited to enter a specific place, but can also extend to a district, municipality or region. Banning an individual from a particular area or place will be severely hampering in preparing or perpetrating a terrorist attack. The area the person involved is not allowed to be has to be defined specifically, with the proviso that no confusion can exist about it. In addition, the ban has to meet the requirements of proportionality. This means that it has to be examined how an individual’s freedom can be restricted in the least profound way. An area ban including the permanent domicile or residence of the person involved, will likely not meet the requirements of proportionality. Besides an area ban, a restraining order can be imposed, meaning that the person involved can’t be near one or more certain individuals.

4.1.2 Duty to report

Imposing a duty to report, can contribute to national security in several ways. Combined with an area or contact ban, it can help implementing those. For example, when someone has been banned from an event located in a certain area, a duty to report in another district can be imposed to make sure he or she actually stays away from the event. It can also be used to maintain a travel ban. However, the duty
to report can also be imposed as a separate measure. In that case it is used to get and keep an adequate picture of the person involved. For example, to monitor a traveller returned from jihadist conflict zones, who gives reason to believe that he or she plans to continue achieving jihadist ideals outside the conflict zone.  

4.1.3 Travel ban

Individuals that travel out to join a terrorist organisation, pose a threat to Dutch national security. Even though it’s possible to withdraw passports from people suspected of planning to travel out, this can’t always stop them from actually doing so. When the person involved has dual nationality, he can travel out with his other passport. A Dutch national can also travel to Turkey with an ID card and from there travel (illegally) to Syria and Iraq. To prevent these individuals from travelling out, the possibility of imposing a travel ban has been created, making it impossible for the person involved to travel outside Schengen.  

4.2 Refusal or withdrawal of subsidy, licenses, exemptions and acknowledgements

The refusal or withdrawal of subsidy, licenses, exemptions and acknowledgements, takes place when the applicant, recipient or holder of one of these can be linked to terrorist activities or facilitating them and there is a severe risk that the subsidy, license, exemption or acknowledgement will be used for the benefit of (facilitation of) terrorist activities.  

4.3 Possibilities to challenge administrative measures

Measures to restrict a person’s freedom are temporary in nature and may be imposed for a maximum of six months, with a possible extension of another six months. The Minister of Security & Justice may also revoke an imposed measure in favour of the person involved, in case new facts or circumstances give rise to that. A measure will in any event be withdrawn as soon as it is no longer necessary for the protection of national security. When the person involved disagrees with the decision to impose a restrictive measure, the law grants the opportunity to lodge an appeal at an administrative court. In case the person involved disagrees with the refusal or withdrawal of subsidy, licenses, exemptions and acknowledgements, he can register a notice of objection with the administrative body responsible for the decision. Should this not lead to the desired result, an appeal can be lodged at an administrative court.

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118 Art. 3 Interim Act on Administrative Measures against Terrorism.
119 Art. 6 Interim Act on Administrative Measures against Terrorism.
120 Art. 4 Interim Act on Administrative Measures against Terrorism.
121 Art. 4 par. 3 Interim Act on Administrative Measures against Terrorism.
122 Art. 4 par. 4 Interim Act on Administrative Measures against Terrorism.
123 It is not necessary to raise administrative objections first; in view of the person’s interest in obtaining clarity through a court ruling as soon as possible.
124 Art. 5 par. 1 Interim Act on Administrative Measures against Terrorism; art. 8:1 General Administrative Law Act; art. 8:52 General Administrative Law Act; Parliamentary Documents II 20015/16, 34 359, no. 3, p. 29-30.
125 Art. 7:1 General Administrative Law Act.
5. Conclusion

Large-scale terrorist attacks haven’t occurred in The Netherlands yet. The attacks in New York, London and Madrid, as well as the political and societal unrest, especially after the murder of Theo van Gogh, have however made the Dutch government fully aware of the national terrorist threat. This led to a rigorous change in ideas on and the approach to terrorism. For a few years The Netherlands has had separate legislation and policy to combat terrorism. However, this legislation and policy barely pays any attention to the particular position of minors suspected or convicted of committing terrorist acts. Minors are prosecuted and punished according to the regular Criminal Code, which however does contain some provisions regarding minors. As for administrative measures, a set of measures on counterterrorism has also been established, however these do not distinguish between adults and minors.
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Footnotes page 16:
These national reports examine the current situation of children suspected or convicted of terrorism in Austria, Belgium, Croatia, France, Germany, Hungary, Latvia and the Netherlands.

They describe what happens to children when they come to the attention of the criminal justice authorities as a result of alleged involvement with terrorist activity, under the existing law and policy frameworks of each country.

Therefore, these reports as an ensemble highlight the variations in implementation and differing provision in terms of procedural safeguards for these children.

In addition, the reports offer promising practices that are used to strengthen criminal justice systems for children in a counter-terrorism context.