



FEMALE JIHADIS FACING JUSTICE

COMPARING APPROACHES IN EUROPE

EDITED BY T. MEHRA, T. RENARD
& M. HERBACH

with M. HECKER, S. KOLLER

Female Jihadis Facing Justice

Comparing Approaches in Europe

Edited by Tanya Mehra, Thomas Renard, and Merlina Herbach

with contributions from Marc Hecker and Sofia Koller

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List of Abbreviations

AANES	Autonomous Administration of North and East Syria
AIVD	Algemene Inlichtingen en Veiligheidsdienst (General Intelligence and Security Service)
AJSD	Ambulanter Justizsozialdienst (Outpatient Justice Social Service, responsible for probation, guidance supervision, and court service)
AMT	Association de Malfaiteurs en Relation avec une Entreprise Terroriste (Association with Terrorist Wrongdoers)
APCARS	Association de Politique Criminelle Appliquée et de Réinsertion Sociale (Association for Applied Criminal Policy and Social Reintegration)
API	Aussteigerprogram Islamismus (Exit Program Islamism in North Rhine Westphalia)
AWG	Außenwirtschaftsgesetz (Foreign Trade and Payments Act)
BAMF	Bundesamt für Migration und Flüchtlinge (German Federal Office for Migration and Refugees)
BGH	Bundesgerichtshof (German Federal Court of Justice)
BKA	Bundeskriminalamt (German Federal Criminal Police Office)
BMFSFJ	Bundesministerium für Familie, Senioren, Frauen und Jugend (German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth)
BMI	Bundesministerium für Inneres und Heimat (Federal Ministry of the Interior and Community)
BMJ	Bundesministerium der Justiz (German Federal Ministry of Justice)
bpb	Bundeszentrale für politische Bildung (German Federal Agency for Civic Education)
CAPREV	Centre d'Aide et de Prise en Charge des Radicalismes et Extrémismes Violents (Belgian Centre for the Support and Management of Radicalisms and Violent Extremisms)
CAW	Centrum Algemeen Welzijnswerk (Flemish Centre for General Social Welfare)
CEAPIRE	Centre of Expertise and Advice for Prevention and Intervention of Radicalism and Extremism
Celex	Extremism Cell

CPU	Commission Pluridisciplinaire Unique (Multidisciplinary Commission)
CUTA	Coordination Unit for the Threat Analysis
DCSR	Droit commun susceptible de radicalisation (Common law inmate susceptible to radicalisation; often referred to as RAD)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
FBI	Federal Bureau of Investigation
FIJAIT	Fichier des Auteurs d’Infractions Terroristes (National Database for Terrorist Offenders)
FF	Foreign Fighter
FTF	Foreign Terrorist Fighter
GBA	Generalbundesanwalt (German Federal Public Prosecutor’s Office)
GenStA	Generalstaatsanwaltschaft (State Prosecutor’s Office)
GRIP	Gedetineerden Recherche Informatie Punt (Detainee Criminal Investigation Information Point)
GTAZ	Gemeinsames Terrorismusabwehrzentrum (Joint Counter Terrorism Centre)
ICC	International Criminal Court
IIIM	International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011
IND	Immigratie-en Naturalisatiedienst (Dutch Immigration and Naturalisation Service)
ISIS	Islamic State in Iraq and Syria
JIT	Joint Investigation Team
KIP NI	Kompetenzforum Islamismusprävention Niedersachsen (Competence Forum for the Prevention of Islamism in Lower Saxony)
KODEX	Kompetenzzentrum für Deradikalisierung und Extremismusprävention im Land Bremen (Competence Centre for Deradicalisation and Prevention of Extremism in the State of Bremen)
KONEX	Kompetenzzentrum gegen Extremismus (Competence Centre against Extremism in Baden-Wuerttemberg)
LISC-R	Local Integral Security Cells

LKA	Landeskriminalamt (State Criminal Police)
LTF	Local Tasks Forces
MAR	Multidisciplinair Afstemmingsoverleg Resocialisatie (Multidisciplinary Resocialisation Coordination Meeting)
MFA	Ministry of Foreign Affairs
MICAS	Mesures Individuelles de Contrôle Administratif et de Surveillance (Individual Measures of Administrative Control and Surveillance)
NeDiS	Netzwerk für Deradikalisierung im Strafvollzug (Network for Deradicalisation in the Penitentiary)
NIFP	Netherlands Institute for Forensic Psychiatric and Psychology
NPP	Nationales Präventionsprogramm gegen islamistischen Extremismus (National Prevention Programme against Islamist Extremism)
NTA	Nuance, Training and Advies
ODHIR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
PAIRS	Programme d'Accompagnement Individualisé et de Réaffiliation Sociale (Individualised Support and Social Reaffiliation Programme)
PARE	Programma Aanpak Radicalisering en Extremisme (Programme to tackle radicalisation and extremism)
PNAT	Parquet national antiterroriste (Prosecutor's Office Specialised in Terrorism)
PNPR	Plan National de Prévention de la Radicalisation (National Plan to Prevent Radicalisation)
PPRV	Programmes de Prévention de la Radicalisation Violente (Violent Radicalisation Prevention Programmes)
QER	Quartiers d'Évaluation de la Radicalisation (Evaluation of Radicalisation Units)
QPR	Quartiers de Prise en Charge de la Radicalisation (Radicalisation Processing Areas)
R&R	Rehabilitation and Reintegration
RISc	The Risk and Advise Tool
RIVE	Recherche et Intervention sur les Violences Extrémistes (Research and Intervention on Violent Extremism)
SDF	Syrian Democratic Forces
SGB	Verklaring omtrent het Gedrag (Statement of Good Behaviour)

SPS	Psycho-social Services
SPSC(Ex)	Service Psycho-social Central Extrémisme (Central Psycho-Social Service Extremism)
Sr	Wetboek van Strafrecht (Dutch Criminal Code)
StGB	Strafgesetzbuch (German Criminal Code)
StPO	Strafprozessordnung (German Code of Criminal Procedure)
StVollzG	Gesetz über den Vollzug der Freiheitsstrafe und der freiheitsentziehenden Maßregeln der Besserung und Sicherung (short: Strafvollzugsgesetz; German law on the execution of custodial sentences and measures of correction and security involving deprivation of liberty, short: Penitentiary Act)
TER	Terrorism, Extremism and Radicalisation
TIS	Terroristes Islamistes Sunnites (Sunni Islamist Terrorists)
U2P	Unité de prévention du prosélytisme (Proselytism Prevention Unit)
UD	Unités dédiées (Dedicated Units)
UNITAD	United Nations Investigative Team for Accountability of Da'esh/ISIL
UNSC	United Nations Security Counsel
UPRA	Unités de prévention de la radicalisation (Radicalisation Prevention Units)
UVF	Unités de Vie Familiales (Family Living Units)
VEO	Violent Extremist Offender
VERA-2R	Violent Extremism Risk Assessment 2 Revised
VPN	Violence Prevention Network
VSSE	Sûreté de l'Etat (Belgian State Security Service)
VStGB	Völkerstrafgesetzbuch (German Code of Crimes against International Law)
VVD	Vorum Voor Democratie (Forum for Democracy)
ZET	Zentralstelle zur Bekämpfung von Extremismus und Terrorismus (Central Unit for Countering Extremism and Terrorism within the Bavarian State Prosecutor's Office)

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1

Introduction

Thomas Renard, Tanya Mehra, and Merlina Herbach

The involvement of women in terrorism is not new, but it has gained more attention with the rise of the Islamic State in Iraq and Syria (ISIS), which attracted many women to its so-called caliphate. Initially perceived as victims or harmless, these women progressively became a growing subject of attention and concern for security services. In 2017, the Dutch intelligence service (AIVD) already indicated that the threat emanating from female jihadis should not be underestimated, while recognising knowledge gaps about the role(s) these women played in jihadi movements or the threat they posed.¹ The same year, the United Nations Security Council Resolution 2396 (2017) stressed that women who were affiliated with terrorist organisations “may have served in many different roles, including as supporters, facilitators, or perpetrators of terrorist acts” and urged states to pay special attention to this as women “require special focus when developing tailored prosecution, rehabilitation and reintegration strategies.”² Yet, in spite of more attention from counter-terrorism services, and a growing body of literature on female terrorists, there is still a considerable lack of data-driven, empirical research on female violent extremist offenders (VEOs). This book seeks to inform practitioners and policy-makers on how to manage female VEOs through the criminal justice system in a rule of law and human rights compliant manner through four case studies in Europe.

Context

It is estimated that around 20 percent (around 1,000 individuals) of the so-called ‘foreign terrorist fighters’ (FTFs) who joined ISIS from Europe were women.³ Through the promotion of a utopian society, and through specific propaganda, ISIS successfully appealed to women and even to entire families, promoting a sort of ‘family-friendly’ jihad.

The media often described women who travelled to join a terrorist organisation abroad as naive lovers lured to the caliphate through romantic scams, and often labelled as “jihadi brides”. However, it has been well documented that many European women joined ISIS for a much wider range of reasons, such as belief in the ideology, seeking a sense of belonging, a higher cause, adventure, or an alternative life path. In short, women were motivated by a broad range of push and pull factors, just like men. Once in ISIS territory, women performed a variety of roles. Although most women were confined to their household with the mission to give birth to, and raise children to grow the so-called caliphate, some women played more active roles in ISIS bureaucracy, such as working as nurses, prison guards, or religious police officers. Furthermore, some women actively contributed to ISIS propaganda, fundraising, and recruitment activities.⁴

After the fall of the so-called caliphate in March 2019, following the last battle in Baghuz, thousands of alleged ISIS members – both men and women – were captured and detained by Kurdish-led forces, mainly in Northeast Syria. Several hundred European adults were among them, a majority of them women, as well as hundreds of children.⁵ This situation presented European governments with a dilemma – would they repatriate these individuals to their home countries or not? After a strong initial reluctance, some European governments started to repatriate children, first, and then some women - mostly mothers with their children. Several governments have been challenged in front of national courts but also at the European Court of Human Rights (ECtHR) in order to demand the repatriation of European citizens.⁶ Between 2019 and late 2023, at least 400 children and 136 women were repatriated by various European governments, although more European women and children remain in the area.⁷ In contrast, only a handful of men have been repatriated thus far. Repatriations were therefore at least partly gender-biased, an approach that was supported by many NGOs.⁸ The repatriation of women was facilitated by their status as mothers, and the fact they were detained alongside their children, as opposed to men, while men were perceived as more dangerous to repatriate, both from a security point of view as well as from a political point of view.

Not all radicalised women travelled to Syria and Iraq or attempted to do so. Several VEOs remained in Europe and attracted the attention of security services as they were involved in various activities such as financing, propaganda, or recruitment. Some women were even involved in terrorist plots in Europe as early as 2014, culminating in the first all-women failed terrorist attack in Paris in September 2016.⁹ In 2016, a German teenage girl also stabbed a police officer in the name of ISIS, and was convicted and sentenced to six years in prison.¹⁰ In 2023, in Belgium, a jihadi-inspired terrorist plot involving several men and women was also thwarted.¹¹

Overall, the perception of female VEOs by security services evolved progressively, as explained in this book. As the terror threat in Europe increased significantly, and as more women were returning from the so-called caliphate, women were no longer perceived as victims, but rather they became increasingly seen as perpetrators, offenders, and even a security threat. This book looks at the criminal justice approaches adopted by Belgium, France, Germany, and the Netherlands to deal with these female VEOs.

Female VEOs – New Data, New Insights

This book is the result of a research project which started from the recognition that female VEOs represent a growing challenge for security services, notably in Europe. At the same time there are significant knowledge gaps due to the limited literature and data available on female VEOs which largely restricts the understanding of this phenomenon and the capacity to inform evidence-based policies. One of the key aims of this project was therefore to produce new knowledge, based on a unique dataset of 283 court decisions and 69 interviewees with relevant stakeholders in four countries (France, Belgium, Germany, and the Netherlands), as a contribution to both the academic literature and to counter-terrorism policy-makers and practitioners.

The key objective of this project was to understand how female VEOs are managed throughout the criminal justice system, and in particular whether there are some specific aspects or challenges linked to gender. The project also looked at the evolution of this response over time. Specifically, the research conducted for this project looked at the prosecution, prison management, rehabilitation, and reintegration of jihadi female VEOs in Belgium, France, Germany, and the Netherlands between 2012 and 2023. Although this work uncovered some

interesting data about women's profiles and roles in terrorism, this was not the primary goal. Indeed, in the under-developed literature on female VEOs, more attention has been given to the profiles, roles, and trajectories of women than to the counter-terrorism responses.¹²

Against this backdrop, this book aims to provide new insights on the criminal justice response to female VEOs. The first key insight is that it appears that, at least initially, many female returnees were treated more leniently by the criminal justice system, hence raising questions of whether there is a gender bias when it comes to the prosecution and sentencing of female VEOs. The second insight is that the growing number of female VEOs in prisons presents an unprecedented challenge to the penitentiary administration in terms of prison regimes, management, and risk-assessment. This is particularly in light of the profiles of some female returnees that remained many years in Syria and Iraq and who have experienced prison-like camps in Syria. This raises questions about the need (or not) for specific prison management approaches for female VEOs. The third key insight is that very little empirical data is available on the effectiveness of rehabilitation programmes for VEOs within or outside the prison context, let alone female VEOs. A key issue is whether there is a need for gender-specific or gender-sensitive programmes, and what these programmes should look like. Fourth, as several female VEOs have already left prison, or will leave prison in the coming years, the risk of terrorist recidivism among female VEOs remains unknown. Finally, this project paid attention to the issue of children as many female returnees were repatriated with their children, which had a clear impact on the sentencing, as well as their rehabilitation and reintegration processes.

Previous Research on Female Terrorists

Although women have long been part of terrorist organisations, and even played very active roles in some of these organisations, they have historically been largely neglected in academic research. More research has nonetheless been published on female terrorists or gender and extremism in the past two decades, allowing for some preliminary observations of interest to this project.

Research has shown that women might play a wide variety of roles within terrorist organisations, from supporting to leading roles, and that they can contribute in important ways in advancing the aims of terror groups.¹³ It is estimated that women have been active participants in most terrorist organisations in history. Some terrorist organisations had a very significant female membership, for instance, women represented up to 40 percent of the Revolutionary Armed Forces of Colombia (FARC). Some terrorist organisations have been founded by women – such as the far-left Baader-Meinhof group in Germany, in the 1970s – or were composed almost exclusively of women, such as the far-left US-based May 19th group, which was a splinter group of the Weather Underground Organisation established in the late 1970s.¹⁴

Most research highlights the agency of women in joining a terrorist organisation, as opposed to the “jihadi brides” narrative largely present in the media, that portray women as naive victims.¹⁵ In contrast to a certain perception that women would be essentially non-violent, research actually demonstrates that about a third of suicide terrorist attacks committed prior to 2000 were committed by women, and some groups such as the Tamil Tigers, active in Sri Lanka in the 1990s, had all-women combat units.¹⁶

In terms of profiles, one rare study that builds on a large sample of jihadi female terrorist profiles in the West (N=272), found that women were in general relatively young when radicalising (22.5 years old on average), very similarly to men. In another study comparing 182

women and 1,685 men from a dataset on US-based radicalised individuals, as many similarities as differences were found across gender in terms of profiles.¹⁷ A key difference between male VEOs and female VEOs was related to criminal records: women were much less likely to have previously engaged in criminal activities, a finding we also confirm in our book.¹⁸

Many terrorist groups have well understood the strategic importance of recruiting women.¹⁹ Indeed, gender bias among security stakeholders sometimes resulted in less attention to (potential) female terrorists.²⁰ Furthermore, women usually receive more media attention, which can result in more publicity for the group.²¹ Finally, women could also be recruited to simply increase the membership base of the terrorist organisation.²²

Understanding the variety of profiles and the full scope of the roles that women play in terrorism is paramount to ensuring proper accountability in the face of justice, as well as to tailoring rehabilitation and reintegration measures.²³ Reducing women's engagement in political violence to basic stereotypes such as "bad mothers", "whores", or "monsters", and essentially as deviant women, is not the best guide to effective policy responses.²⁴ However, even in this growing body of literature there is a gap related to criminal justice and counter-terrorism responses to alleged female terrorists.

Research has demonstrated that women are generally treated more leniently than men by the criminal justice system.²⁵ They are overall less likely to be prosecuted, less likely to be convicted, less likely to receive long sentences, and less likely to be imprisoned. The small share of women in the prison population worldwide raises the question of whether women are genuinely less likely to commit a crime, or whether they are indeed treated differently by the criminal justice system. Although very little research has been conducted on the prosecution of female terrorist offenders specifically, some findings suggest indeed a perpetuation of this bias. During trials, female terrorists have often been presented as victims, mere followers, or naive lovers by their lawyers, the media, and themselves. This is still as true today as seen during trials of female ISIS returnees, as it was during the trials of ETA female members in Spain, or far-left terrorists in France in the 1980s.²⁶ In a rare empirical study of court decisions in the United States (US) and Canada, Omi Hodwitz demonstrated that female VEOs were less likely to be sentenced than their male counterparts and, when they are convicted, more likely to receive shorter sentences.²⁷ Research from the United Kingdom (UK) also suggests that female extremists are less likely to be prosecuted and charged than men.²⁸ In other parts of the world, for instance in the Western Balkans or in Morocco, female returnees are mostly considered to be victims or non-combatants, and are therefore often not prosecuted, as opposed to men.²⁹

Another very recent strand of research has started to look at the prosecution of female returnees in several countries, looking notably at the types of charges, access to evidence, and rates of convictions for women. It also explored the notion of cumulative charging for terrorism crimes, domestic crimes, and core international crimes.³⁰ In doing so, research has shown that the prosecution of female returnees for core international crimes has evolved. For example, some of the research demonstrates that women are increasingly being prosecuted for their involvement in (sexual) slavery as crimes against humanity.³¹ Additionally, charges on gender and religious grounds are also being included in such prosecutions more frequently.³² Nonetheless, cumulative charging of female VEOs has not been uncriticised, especially in relation to the fact that the first prosecutions for pillaging as a war crime were only targeting female perpetrators, whereas men did not face this specific charge.³³ Against the background of additional case-law, this prosecutorial approach will be further analysed in this book.

Despite the growing attention to the role of women in terrorist groups, there is still only very little research into the specific risks and needs of female VEOs in prison, and how to assess

and address these.³⁴ In some rare research about this aspect in France, one finding noted that religiosity was perceived very differently in the management of male and female prisoners. It was less visible, and perceived by staff as less threatening, amongst women than amongst men.³⁵ Some scholars and practitioners have identified the need to further investigate gender-specific needs of female VEOs,³⁶ whereas other research has highlighted the absence of specific research into psychopathology as a risk factor for female terrorist offenders.³⁷

European practitioners have noted that gender-sensitive practices and policies for female inmates do not sufficiently address the situation and needs of female VEOs who were often not involved in violent conduct, experienced multiple traumas, and were overall incarcerated for shorter periods, leaving less time for in-prison rehabilitation and de-radicalisation measures.³⁸ It is acknowledged that finding gender-sensitive approaches to female VEOs is of pressing importance, given the increasing number of female returnees from Syria and Iraq, although these recommendations are rarely based on strong evidence due to the limited research available.³⁹

There is also little data available on how many female VEOs have undergone rehabilitation measures, and if so, which measures specifically. Some practitioners have identified several alleged good practices for the rehabilitation of female VEOs,⁴⁰ although the foundations for supporting these claims are not always clear.⁴¹ Some recommendations usually include the need to start rehabilitation as early as possible, ideally by involving family members and social services. For female returnees, maintaining a connection with their children is considered paramount, as well as reconfiguring the role of motherhood to develop appropriate bonds with their children in a new environment.⁴² It is also noted that strategic communications with communities receiving these women back is essential to avoid stigmatisation and create awareness for the situation and needs of female VEOs. Moreover, information sharing between different services has been identified as key to successful rehabilitation of female returnees, especially when prison sentences are often too short to participate in and complete meaningful rehabilitation programmes in prison, or where detention is limited to pre-trial detention. Thus, the exchange of information between prison workers and outside social services is crucial to facilitate the smooth transition when they exit prison.⁴³

Overall, the existing literature on female VEOs and their management throughout the criminal justice chain is still somewhat limited and, above all, lacks clear data or strong empirical evidence to derive new scientific and policy-relevant knowledge. Most existing studies, with a few exceptions, rely exclusively on open-source material or secondary sources, and lack a systematic approach. There are therefore significant gaps in the current understanding of female VEOs, and how to manage them through the criminal justice system. This project seeks to address these gaps by providing evidence-based insights, founded notably on the detailed analysis of 283 court cases.

Methodology

This project focussed on jihadi female VEOs in Europe. It looked at the women who travelled to join a terrorist organisation abroad, some of whom returned, but also at women who were prosecuted for terrorism without (attempting to) travel abroad or who failed to travel. To keep some consistency in the sample, it is narrowed to women prosecuted in relation to jihadi terrorism, therefore excluding cases linked to other ideologies. This only had a limited impact on the size of the sample, however, as few women have been prosecuted for other forms of terrorism in Europe over the past decade.

In terms of timeframe, all cases that pre-dated the conflict in Syria were excluded. The sample is therefore largely dominated by ISIS- and Syria-related cases between 2012 and 2023, ensuring greater consistency. Furthermore, given the very significant changes that have occurred in the European counter-terrorism landscape since 2012, this timeframe allows to maintain some consistency in assessing the threat and policy landscape.

Since a consistent problem in the study of female terrorists is the low number of cases, this project compiles data across several countries. This book focuses on female VEOs in Belgium, France, Germany, and the Netherlands. These four countries together represented more than half of all adults who travelled to Syria and Iraq to join a jihadist terrorist organisation. All four countries had a significant number of women convicted for terrorism in the past years.⁴⁴ From a comparative point of view, these countries were also interesting as despite all of them being Western European member states, they showcase different institutional structures and differ in their counter-terrorism responses and judicial systems.

The findings presented in this book are based on an interdisciplinary, mixed-methods approach. First, a unique dataset of case-law relating to female VEOs was compiled. This was based on the compilation and coding of 283 court cases obtained across the four countries, representing a total of 277 individuals which were available on-line or provided by the prosecutors upon request by the authors. This not only includes cases in which individuals have been convicted, but also cases resulting in acquittals. Additionally, information on ongoing investigations and trials was collected to corroborate findings on trends and developments. Second, 69 practitioners, experts, and policy-makers working on the prosecution, prison administration, rehabilitation, and reintegration of female VEOs in the four countries, as well as some female VEOs in France, were interviewed (discussed below). Thirdly, research was informed by existing literature and policy documents. Finally, early findings were discussed with fourteen practitioners from all four countries studied, during a workshop organised in The Hague, Netherlands in June 2023.

Interviews

Relevant stakeholders, practitioners, and experts in prosecution, prison administration, rehabilitation, and reintegration of female VEOs in Belgium, France, Germany, and the Netherlands, as well as six female VEOs in France, were interviewed for this project (Belgium (8), France (30), Germany (18), Netherlands (19)). Semi-structured interviews were conducted by the four national country experts (the chapters' named authors) based on a common list of questions. Due diligence was given to informed consent, confidentiality, and anonymity, as well as data protection. One-off interviews were conducted either in person or online and averaged one to two hours. Where the interviewees consented, the interviews were audio-recorded. Conversations focused on the knowledge, experience, and perceptions of interviewees concerning radicalisation and backgrounds, prosecution, risk assessment, and prison administration, as well as rehabilitation and reintegration of female returnees and VEOs in their respective countries. The precise focus of the discussions shifted pursuant to the interviewees' professional background.

Data Collection

The use of court decisions in the study of terrorism, and particularly of female terrorist offenders, is still limited. It is arguably even rarer in a comparative context across multiple countries. As such this book provides new and unique data to the field. Nonetheless, some

important limitations must be noted. Firstly, the method to identify relevant cases was different in each country, with none guaranteeing complete exhaustiveness of cases. As a result, some cases of female VEOs might be missing from the dataset. Secondly, the amount of information available for each case varied significantly. Some court decisions were long and included extensive information, whereas others were very limited in the information provided. Furthermore, some court cases were obtained in an anonymised format, which made part of the coding process difficult or impossible, resulting in some loss of information. The policies and practices on the publication of court decisions varies significantly across and within the four countries making it difficult to obtain full judgments in all cases.⁴⁵

Finally, it is worth clarifying that the starting point to collect cases was the initiation of criminal proceedings, not the conviction. As a result, the dataset includes several acquitted individuals. Such information was useful to evaluate prosecution practices. However, these cases were removed from calculations when extracting profile data on female VEOs, as result of their non-guilty verdict.

Dataset Coding

Four distinct country-specific databases of female VEOs prosecuted for terrorism offences, and where applicable additional domestic or core international crimes, were created from information made available as described above. In doing so, a ‘case’ was understood to relate to one individual woman. Cases with two or more female co-defendants are hence counted as multiple cases. Given the interdisciplinary nature of the research, the country-specific datasets were divided into two sections each - one compiling legal data, and one compiling context data. The first section on legal data included details relating to:

1. Name (first name and initial of last name) and case number(s);
2. Links to relevant decision(s) and other publicly available information;
3. Type of criminal procedure such as juvenile justice, plea agreements, or trials in absentia;
4. Case status detailing whether a case is under investigation, awaiting trial, on trial, and when on trial or appeal, at which instance;
5. Group(s) that the individual was allegedly affiliated with;
6. Nationality of the defendant, including second nationality where applicable;
7. Information on charges included in the indictment were divided into three categories: core international crimes, terrorism offences, and domestic offences;
8. Information on the verdict was collected chronologically, portraying decisions made throughout the different instances;
9. Length and type of sentence, including applicable probation measures and/or reparation payments were also collected chronologically pursuant to the different instances;
10. Indictment period, calculated as a starting date (month/year) and ending date (month/year);
11. Whether the individual was in pre-trial detention or not; and
12. All available dates relating to arrest and trial proceedings.

A second section relating to context data was also developed which included details on:

1. Date or year of birth of the alleged perpetrator where available;
2. Criminal record of the alleged perpetrator;
3. Citizenship status, in case it was revoked;

4. Parental status at commission of crimes, on first trial day, and on day of first verdict;
5. Activities carried out by the accused and adjudicated on trial based including logistical support, arranging travels, financing, recruitment, propaganda, receiving training, giving training, incitement, plotting, and other;
6. Travel arrangements detailing whether the individual travelled to the conflict zone in Syria or Iraq, stayed in her country of residence, or failed to travel abroad, as well as how the person returned, if applicable; and
7. A short case summary, briefly explaining the case matter in a narrated style.

To allow for cross references, internal case codes and names of defendants and case numbers were the same in both the first and second section. While the first dataset sought to compile more detailed data, for example relating to religious backgrounds and mental health of the women, this data was often not available due to its sensitive nature, and thus not systematically collected.

Definitions Used

This book relies on information from four different domestic legal jurisdictions. Despite slightly different criminal procedures across the four countries, for example in relation to the number of available courts or the existence of centralised courts and prosecution offices in contrast to federalised mechanisms, the terminology used to describe these procedures (when translated to English) was largely the same. While criminal procedures in the four civil law countries rely on common terminology, the language used in the provisions of material law differ.¹ Additionally, the four countries have not all criminalised the same conduct. Regardless, “prosecution” is understood as the process of holding alleged perpetrators accountable for their actions by respective authorities, spanning the entire chain of criminal proceedings from initial investigations to final verdicts or termination. To allow for a comparison of the prosecution of female VEOs in the four countries, common definitions were used when analysing data, and these definitions are also used throughout this book, such as for example “membership in a terrorist organisation” which captures the different modes in which the four countries have criminalised different levels of participation in a terrorist organisation. Given that all four target countries are member states of the European Union (EU), definitions relating to terrorism and terrorist offences were taken from Directive (EU) 2017/451 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (2017 EU Directive on combating terrorism).⁴⁶ Terminology relating to so-called core international crimes, which for the purpose of this book include war crimes, crimes against humanity, and genocide, were borrowed from the Statute of the International Criminal Court (Rome Statute) and corresponding Elements of Crimes.⁴⁷ This was done against the background of State parties to the International Criminal Court (ICC) having used the Rome Statute as a blueprint for their domestic laws on core international crimes, when incorporating these into domestic legislation. Country-specific terminology and findings can be found in the respective country chapters.

Additionally, when referring to “travellers” throughout this book, this includes individuals who successfully travelled to a conflict zone to join a terrorist organisation there. Once they returned to their home country, they are labelled as “returnees”. Individuals who were prevented from travelling to join a terrorist organisation at home or in a third state, such as for example Turkey,

¹ An interesting approach for future research could be the assessment of prosecution, rehabilitation, and reintegration of female VEOs in one or more common law countries.

are referred to as “failed travellers”. This distinction is made to highlight the fact that while these individuals made travel arrangements and did some part of the travel, they did not manage to go through with their plans and did not spend any time with a terrorist organisation abroad. “Travellers” are commonly referred to as “foreign terrorist fighters” (FTFs) or foreign fighters. This category usually encompasses all adults – both men and women.⁴⁸ In some countries, such as Belgium, FTF is more than a concept, it is also a legal category in the database on extremist offenders, applicable again to both men and women.⁴⁹ However, the term has also been criticised for various reasons. Firstly, the notion of ‘foreign’ was considered to be misleading, not least by the former Dutch Minister of Foreign Affairs, Bert Koenders, who noted that these individuals “are not foreign at all. They may be foreigners in the countries where they are going to. But [...] [t]hey are part of our societies.”⁵⁰ Secondly, the definition of FTF used in UNSC 2178(2017) conflates armed conflict and terrorism.⁵¹ By labelling them as foreign “terrorist” fighters, the focus is set on counter-terrorism aspects while international humanitarian law is often excluded from the picture.⁵² This is particularly counter-productive when managing these individuals through the criminal justice chain, as it often ignores the full range of crimes committed by them, and emphasises a security approach over full accountability.⁵³ The Office for Democratic Institutions and Human Rights (ODIHR) at the Organization for Security and Co-operation in Europe (OSCE) highlighted that individuals who joined terrorist organisations abroad had different profiles and were engaged in different types of activities – a fact that was also confirmed by the present research in relation to women – and concluded that labelling such a diverse group as FTFs is misleading.⁵⁴

Without necessarily taking sides on this issue, and assuming that the findings in this book are more important than semantic debates, the terms foreign fighters (FF) or FTF have been used conservatively throughout. Instead, the term “female violent extremist offender” (female VEO) was preferred throughout this book as it more precisely reflects the multitude of different activities that these women were involved in, encompassing both violent and non-violent activities. In doing so, female VEOs in this book refer to the entire group of women allegedly involved in terrorist activities both at home and abroad. To provide for even more precision, terms such as “female traveller”, “female returnee”, or “female violent extremist offender” were used where applicable describing the precise status of these women.

Book Structure

This book includes four country chapters that detail the context-specific frameworks and practices of female VEOs’ journey through the domestic criminal justice systems. Looking at the prosecution phase, these chapters assess how many women have been charged, convicted, and acquitted for which crimes. The chapters further elaborate on different types and length of sentences, and other legal responses to threats posed by female VEOs. All these assessments take the special needs of women, for example relating to their parental status, into account. This approach also guides the analysis of prison arrangements for these women in the different countries, focusing on specialised capacities for female VEOs, risk assessment tools, and in-prison rehabilitation and reintegration programmes. Finally, a look at the post-release rehabilitation and reintegration arrangements in the four countries provides insights into gender-specific approaches and obstacles faced by the women and relevant services. The final chapter offers a thorough cross-cutting analysis of common gaps, needs, challenges, and good practices observed in Belgium, France, Germany, and the Netherlands. Drawing on the analysis of our entire dataset, this chapter identifies some interesting commonalities and differences across countries.

This project aims to inform practitioners and policy-makers involved in the management of female VEOs throughout the criminal justice chain. Both the country-specific findings as well as the cross-cutting observations made in this book can, in the long-term, contribute to a human rights and rule-of-law compliant enhancement of accountability for the full range of crimes committed by female VEOs, the improvement of gender-sensitive prison management, and the enhancement of effective rehabilitation and reintegration for female VEOs.

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³ Figures should always be considered with caution when it comes to FTF numbers. Two important studies looked at European FTFs, with a particular eye to the gender dimension. While both studies indicate a rate oscillating around 15-17 percent, the number is likely higher since that ratio is estimated around 20 to 30 percent in the countries that had the highest contingents of FTFs, like France, Germany, and Belgium. See Bibi van Ginkel, and Eva Entenmann, “The Foreign Fighters Phenomenon in the European Union. Profiles, Threats and Policies”, Report, *The International Centre for Counter-Terrorism*, April 2016, ICCT-Report_Foreign-Fighters-Phenomenon-in-the-EU_1-April-2016_including-AnnexesLinks.pdf; Joana Cook, and Gina Vale, “From Daesh to ‘Diaspora’ II: The Challenges Posed by Women and Minors After the Fall of the Caliphate,” CTC Sentinel, vol. 12, 6, July 2019, From Daesh to ‘Diaspora’ II: The Challenges Posed by Women and Minors After the Fall of the Caliphate – Combating Terrorism Center at West Point.

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⁴¹ Amy-Jane Gielen, “Exit programmes for female jihadist: A proposal for conducting realistic evaluation of Dutch approach,” *International Sociology* 33(4), July 2018, pp. 454-472, <https://journals.sagepub.com/doi/10.1177/0268580918775586>.

⁴² Katherine E. Brown, “Gender-sensitive responses to returnees from foreign terrorist organisations: insights for practitioners,” *Radicalisation Awareness Network*, December 2021. https://home-affairs.ec.europa.eu/system/files/2021-12/ran_ad-hoc_gender_sensitive_response_ftfs_122021_en.pdf; Daniela PISOIU, and Thomas Renard, “Responses to returning foreign terrorist fighters and their families”; Gerrit Loots, and Hannan Jamaï, “Reception and (re)integration of returning children from detention camps in Northeast Syria. The Return,” *Report*, 5 June, 2022, <https://reguide.be/wp-content/uploads/2022/09/Report-reintegration-of-the-children-.pdf>.

⁴³ Carlota Rigotti, and Júlia Zomignani Barboza, “Unfolding the case of returnees: How the European Union and its member States are addressing the return of foreign fighters and their families,” *International Review of the Red Cross* no. 916-917, February 2022, pp. 681-703, <https://international-review.icrc.org/articles/unfolding-the-case-of-returnees-eu-and-member-states-return-of-foreign-fighters-916>.

⁴⁴ For more information about gender-aggregated data on individuals travelling to Syria and Iraq in these four countries and other Global Counterterrorism Forum (GCTF) member states, see International Centre for Counter Terrorism and TMC Asser Instituut, “Foreign Terrorist Fighters Knowledge Hub,” accessed on 19 January 2023, <https://www.foreignterroristfighters.info/>

⁴⁵ Despite all four countries assessed for this book being bound by Art. 6 of the European Convention on Human Rights (ECHR) which provides that the public pronouncement of a judgment including its publication in an official collection is part of a defendant’s right to a fair trial, the policies, and practices on publication of court decisions significantly vary across and within the four countries with some lack of transparency. For further guidance and elaborations on the modalities of publicly pronounced judgments, see European Court of Human Rights, “Guide on Article 6 of the European Convention on Human Rights: Right to a fair trial (criminal limb),” 31 August, 2022, paras 318-321, https://www.echr.coe.int/documents/d/echr/guide_art_6_criminal_eng.

⁴⁶ European Parliament, Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, 15 March 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32017L0541>

⁴⁷ UN General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, UNTS 3854, <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>; Assembly of States Parties to the Rome Statute of the International Criminal Court, The Elements of Crimes (last amended 2010), <https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>.

⁴⁸ See for example UN Counter-Terrorism Committee, “Foreign Terrorist Fighters,” Factsheet, accessed on 19 January 2024, <https://www.un.org/securitycouncil/ctc/content/foreign-terrorist-fighters>.

⁴⁹ Service Public Fédéral Interieur and Service Public Federal Justice (Federal Public Service Interior and Public Service Federal Justice), “Arrêté Royal du 21 juillet 2016, publié le 22 septembre 2016,” https://etaamb.openjustice.be/fr/arrete-royal-du-21-juillet-2016_n2016000534.html.

⁵⁰ *Toespraak van minister Koenders (BZ) op het 'Global Counterterrorism Forum (GCTF) and Global Coalition against ISIL/Daesh on the matter of foreign terrorist fighters'*, (Speech by Minister Koenders (Foreign Affairs) at the 'Global Counterterrorism Forum (GCTF) and Global Coalition against ISIL/Daesh on the matter of foreign terrorist fighters'), 11 January 2016, accessible through <https://rijksoverheid.sitearchief.nl/#archive>.

⁵¹ The UN Security Council Resolution defines foreign terrorist fighter s(FTFs) as “namely individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in

connection with armed conflict.” see UN Security Council Resolution 2178(2014), S/RES/2178, 14 September 2014, <https://www.un.org/securitycouncil/s/res/2178-%282014%29>.

⁵² International Committee of the Red Cross, “International Humanitarian Law and the Challenges of Contemporary Armed Conflicts,” Report, Chapter 5: Terrorism, Counterterrorism Measures and IHL, 22 November 2019, <https://www.icrc.org/en/document/icrc-report-ihl-and-challenges-contemporary-armed-conflicts>; Geneva Academy of International Humanitarian Law and Human Rights, “Foreign Fighters under International Law,” *Academy Briefing*, 7 October 2014, https://www.geneva-academy.ch/joomlatools-files/docman-files/Publications/Academy%20Briefings/Foreign%20Fighters_2015_WEB.pdf.

⁵³ Hanne Cuyckens, “Foreign fighters and the tension between counterterrorism and international humanitarian law: A case for cumulative prosecution where possible,” *International Review of the Red Cross* 103(916-917), February 2022, pp. 581-603, <https://international-review.icrc.org/articles/foreign-fighters-and-the-tension-between-counterterrorism-and-ihl-916>.

⁵⁴ Office for Democratic Institutions and Human Rights, “Guidelines for Addressing the Threats and Challenges of ‘Foreign Terrorist Fighters’ within a Human Rights Framework,” Organisation for Security and Co-operation in Europe (OSCE), 2018, pp. 22-28 <https://polis.osce.org/guidelines-addressing-threats-and-challenges-foreign-terrorist-fighters-within-human-rights>.

The Belgian Approach to Female Violent Extremist Offenders

Thomas Renard

Introduction

As of August 2023, there were about 100 women linked to the jihadi ideology in Belgium's Common Database, the database on (violent) extremists maintained by the national counter-terrorism fusion centre, the Coordination Unit for the Threat Analysis (CUTA). Women represent 20 percent of the jihadi extremists in the database. The vast majority of these women are categorised as so-called "foreign terrorist fighters" (FTFs) by CUTA, whereas only a few women are listed in other categories of the database ("hate preacher", "homegrown terrorist fighter", "potentially violent extremist" or "terrorist convict").

In total, over the past decade, 169 women were listed at some point in the Common Database in relation to the jihadi ideology, and therefore monitored by the Belgian security services. However, about 40 percent of them have been removed from the database – mostly due to an absence of incriminating evidence.

Women represented about 20 percent of the 430 Belgian citizens or residents who travelled to Syria and Iraq to join a jihadi group since 2012ⁱ – thus a bit less than one hundred. A number of women had returned from Syria very early, already in 2014, whereas others remained until the fall of the so-called caliphate. While some women died in Syria, notably in the last battles,ⁱⁱ about 35 Belgian female FTFs were captured and detained by the Kurdish forces. Among them, a number managed to escape and reach Turkey through their own means, whereas 16 women were repatriated from the detention camps in Northeast Syria by the Belgian authorities, during two operations in 2021 and 2022. A few more Belgian women are still in Syria, some in detention and others possibly still with a jihadi group around Idlib. As of August 2023, about 50 women have left the conflict zone, out of approximately 150 Belgian so-called "returnees".ⁱⁱⁱ

This country chapter is based on the analysis of all court decisions concerning women involved in jihadi violent extremism from 2012 until November 2022 obtained via the Federal

ⁱ When talking about "Belgian" VEOs and returnees, it is important to highlight that they do not all have the Belgian citizenship.

ⁱⁱ It is worth noting that several women in the Common Database are most likely dead but cannot be removed until death is proven.

ⁱⁱⁱ According to the Coordination Unit for the Threat Analysis (CUTA), which is managing the Common Database on extremists, "returnees" are individuals that have left the conflict zone, although they have not necessarily returned to Belgium. They can be in detention or live in a third country outside of Syria and Iraq.

Prosecutor's Office. This amounts to 120 court decisions for female violent extremist offenders (VEOs), comprising 118 individuals (as there were two cases of terrorism recidivism). This unique dataset allows us to investigate the profile and terrorist involvement of these women, as well as their prosecution. Notably, court decisions after 1 January 2020 were fully anonymised before sharing with the author, which restricted our ability to collect and code certain information for 36 female VEOs. In addition to court cases, this chapter is based on the existing literature as well as seven interviews with eight stakeholders^{iv} dealing with female VEOs throughout the criminal justice system across Belgium.

Female VEOs that have been prosecuted in Belgium since 2012 were generally relatively young, with an average age of 25.8 years at the beginning of the indictment period for terrorism.^v The majority of these women had Belgian nationality, with a limited number of dual nationals (citizenship was not available in 34 cases). Regarding their criminal antecedents, information was only available for 46 women, but only three of them had previous criminal records (6.5 percent). This is in stark contrast with male VEOs, who had criminal antecedents in 50 percent of the cases.¹

The vast majority of the women that have been prosecuted in Belgium in relation to jihadi terrorism since 2012 seemingly adhered to the jihadist ideology, and consciously supported or joined a terrorist organisation, aware that this group was committing atrocities. Although they might have drifted towards an extremist ideology for multiple reasons, their agency in this radicalisation process or in their decision to travel to Syria should not be denied. Some of these women consciously and proactively contributed to propagating a terrorist ideology and to recruiting new members (including sometimes within their family circle). A few women were also known to have worked for the administration of the so-called caliphate (e.g., in a hospital). Some women have likely received training for the use of weapons (in a self-defence context), and a very small number of Belgian women might have received more advanced military training.²

However, compared with men, no Belgian women are known to have participated to combat or terrorist attacks in Syria and Iraq, due to ISIS strict views on the role of women, and there are only very rare cases of explicit threats of attacks by Belgian women. Notably, Anissa C. was arrested in 2017 as she threatened of a mass attack and wanted to “die as a martyr”. In another case, Yousra B. incited her followers on her Facebook account to commit a terrorist attack on Brussels' Grand Place in 2018, when the Belgian football team was expected to meet their fans upon return from the football world cup. Figure 2.1 shows the different types of activities that female VEOs who were convicted for terrorist offences were involved in, according to court decisions. Often, these women carried out more than one activity in relation to their terrorist conduct. Figure 2.1 provides an overview of how many times certain activities were carried out by one of the 107 women convicted for terrorism. Most prominently, 80 women were providing logistical support to a terrorist organisation which makes this the most common activity (46 percent of all activities). Often in combination with that, 28 women made travel arrangements either for themselves or for others to join a terrorist organisation abroad

^{iv} One interview included two officers from the same organisation.

^v This information was available for 81 individuals. This age is very similar to the average age of all terrorist convicts in Belgium, including men, during a similar period (26.3 years old). See: Thomas Renard, “Overblown: Exploring the Gap Between the Fear of Terrorist Recidivism and the Evidence”, *CTC Sentinel* 13:4, April 2020, pp. 19-29. <https://ctc.westpoint.edu/overblown-exploring-the-gap-between-the-fear-of-terrorist-recidivism-and-the-evidence/>.

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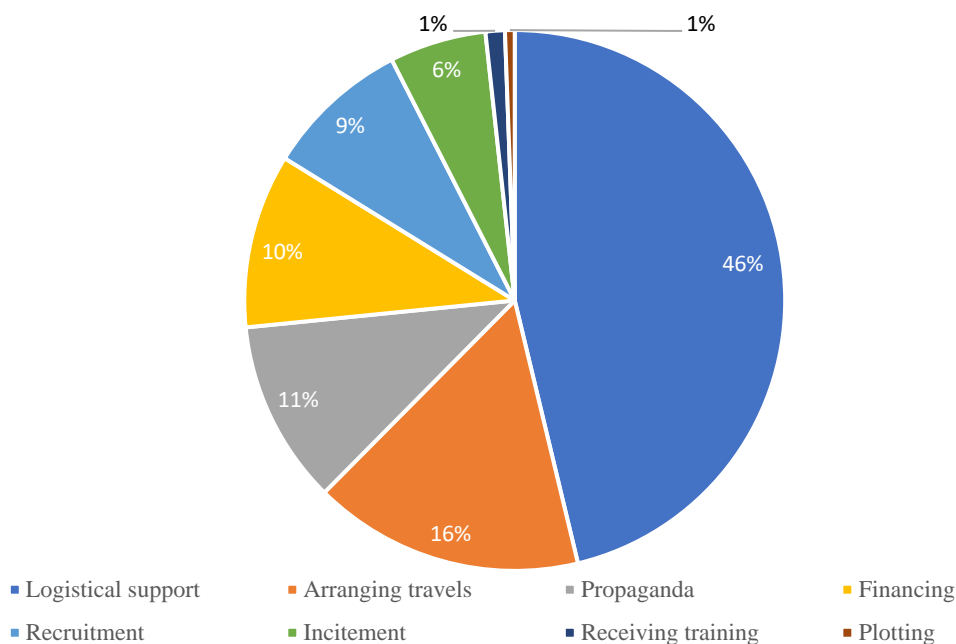


Figure 2.1: Type of activities carried out by all female VEOs convicted of different terrorist offences in Belgium since 2012 (n=173 activities; as of 15 July 2023)

(16 percent of all activities). Notably, only two women were reported to have received terrorist training which makes this one of the least relevant activities, similar to plotting.

Some gender-based distinction is also perceptible in the individual threat assessments. About 20 percent of the women in the Common Database are considered to present a “severe threat”, that is Level 3 on a scale of four levels (Level 4 is extremely rare). This includes a majority of women still in Syria – a number of which are probably deceased. This contrasts with the men, among which 40 percent are considered to present a “severe threat”.

The involvement of women in jihadi extremism does not seem to have ended with the fall of ISIS’s so-called caliphate. In May 2023, seven individuals of Chechen origin, including “some women” according to a press release from the Prosecutor’s Office, were arrested during several coordinated police raids in Belgium. They were all fervent sympathisers of ISIS and are suspected of having prepared a terrorist attack in Belgium.³

The unprecedented mobilisation of women and families for the jihad in Syria presented a new challenge for the Belgian authorities. With very few exceptions, Belgian counter-terrorism services had rarely been confronted with female terrorists. Notable precedents included:

- Pascale Vandegerde, the only female member of the Communist Combating Cells, a far-left group that claimed 21 explosive attacks in 1984-1985. She received a life sentence in 1988 and was released under conditions in 2000.⁴
- Muriel Degauque, a young Muslim convert from Charleroi radicalised and drove to Iraq with her husband in the early 2000s, to join a jihadi group. She became the first female suicide bomber in the Iraqi conflict in 2005, targeting a US convoy and killing five Iraqi officers.⁵
- Malika el-Aroud, the so-called “black widow”, was a prominent figure of the jihadi community in Belgium and in the broader French-speaking world, from the late 1990s. She was a very prolific writer, propagandist, and recruiter for al-Qaeda. She allegedly

met with Osama Bin Laden personally, during her stay in Afghanistan around 2001. After her return to Belgium, in 2001, she had been tried for the first time in 2003, with regard to her recruitment activities for al-Qaeda but was acquitted in spite of her vocal support for jihad – possibly illustrating a justice system that was not yet ready to prosecute women to the same standard as men. In that trial, 21 men and two women were accused, and only five acquittals were pronounced, including for the two women. Malika el-Aroud was nonetheless convicted in 2010 as “leader of a terrorist organisation” and sentenced to 8 years of prison for her recruitment and propaganda activities and was later stripped of her Belgian citizenship.

While it cannot be demonstrated that Belgian authorities were completely blind to the possible role of women in terrorism in the past, it is clear that they have had to adjust to a new reality over the past decade – an adjustment that took a few years, as this chapter shows.

Prosecution

118 women have been tried in Belgium for Islamist-inspired terrorism activities occurring between 2012 and 2022. Previously, only two women had been convicted in Belgium, in relation to jihadi terrorism. Malika el-Aroud, as discussed above, and Gisèle J. who received a suspended sentence in 2015 for forging documents for the terrorist Loris Doukaev,^{vi} although the terrorist charges against her were dropped.

The first women who travelled to Syria and Iraq were not prosecuted. In fact, Belgian authorities were initially more lenient towards foreign volunteers during the first wave of mobilisation for the jihad in Syria and Iraq regarding both men and women. This approach started to change progressively around 2013, and more fundamentally in the aftermath of the terrorist attack against the Jewish museum in Brussels’ city centre in May 2014 – the first attack committed by a returnee from Syria in Europe. From that moment, male FTFs became more systematically monitored and prosecuted.⁶ It took another couple of years and a serious internal reflexion within the Federal Prosecutor’s Office, before deciding that female returnees should also be prosecuted systematically.⁷ This does not mean that women were not investigated prior to 2016, however, but that they were not systematically or immediately prosecuted. Four women were already tried in 2014 (they were convicted for their financial and logistical support to their husbands who travelled to join al-Qaeda in Somalia), and 20 women in 2015 (some of which were convicted for supporting a terrorist organisation by travelling or attempting to travel to Syria, eight of which were convicted in absentia). Figure 2.2 shows the dispersion of first instance trials involving female VEOs (N=71), as well as the number of female VEOs sentenced per year (N=120). The growing number of trials involving women from 2015 onwards is clearly apparent.

The majority of the women involved in jihadi terrorism since 2012 have now been prosecuted. According to a CUTA internal note from 2021, out of the 142 adult women known to the Belgian security services in relation to jihadi terrorism, 98 had been prosecuted (69 percent).⁸ Considering that 26 out of the 44 women that had not been prosecuted were still in Syria in 2021, and were therefore either dead or could still be prosecuted upon return, this leaves only a very small number of women (18, or 12.6 percent of the total) that had not been tried, as of 2021, including nine returnees as well as some women that had failed to travel to Syria. Among

^{vi} Doukaev was a Belgian of Chechen origin who had prepared a letter bomb to be sent to a Danish newspaper in 2010 and was sentenced to 12 years in prison for it.

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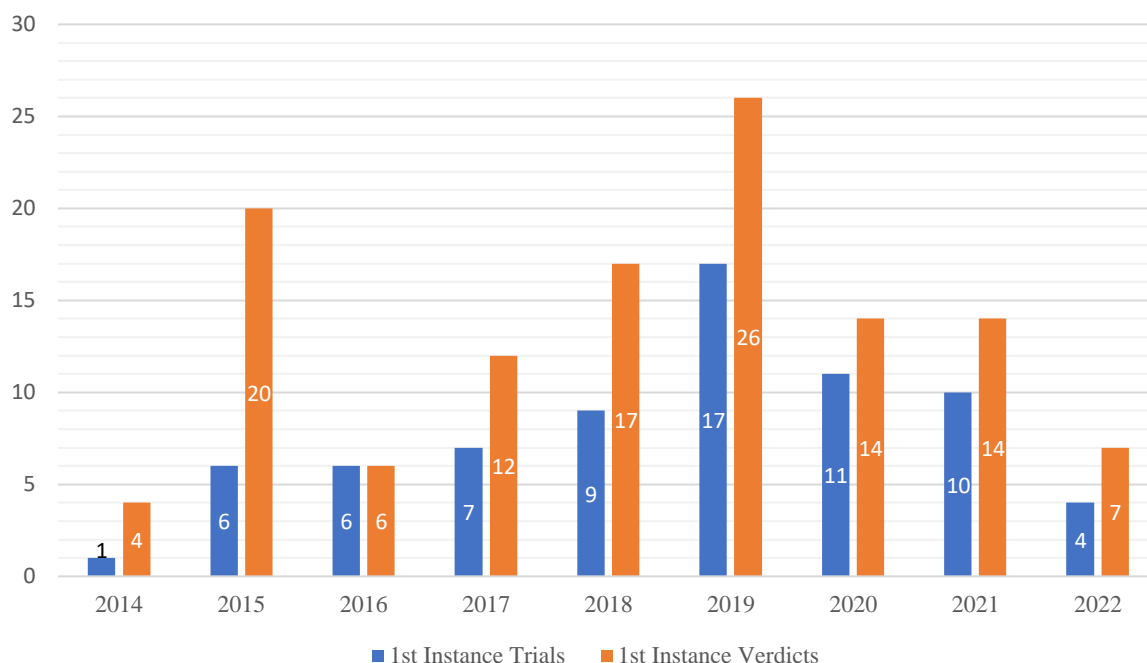


Figure 2.2: Development of first instance trials and first instance verdicts concerning female VEOs in Belgium between 2014 and 2022 (n(t)=71, n(v)=120; as of 15 July 2023)

them, to further explain the absence of prosecution, some were minors and others were not Belgian citizens (and likely to be prosecuted in their country of origin).⁹

The remarkably high rate of prosecution and conviction of female VEOs in Belgium does not preclude the existence of certain stereotypes and a tendency to “exceptionalise” the cases of female VEOs in court. According to a Magistrate from the Federal Prosecutor’s Office, stereotypical descriptions of these women as lovers or housewives have been quite common among defence lawyers, and sometimes echoed by judges.¹⁰ The very gendered vision of the jihadi society under ISIS’s caliphate, where women were largely confined to domestic tasks, consolidated such stereotypes. However, this vision was challenged and progressively deconstructed with the prosecution of the first returning women, showing a broad scope of criminal offences committed in support to a terrorist organisation (see Figure 2.1 on terrorist activities above and Figure 2.3 on terrorist offences below). Nonetheless, some magistrates consider that women remain treated more leniently than men.¹¹

All terrorist offenders in Belgium, irrespective of gender, are prosecuted on the basis of articles 137 to 141 of the Belgian criminal code, which defines the different terrorist offences and related sentences.¹² This section of the criminal code was introduced in 2003, transposing the EU’s Framework Decision on terrorism from 2002.¹³ Over time, more terrorist offences have been added, notably with regard to incitement (2013), travel for terrorism purposes (2015), recruitment (2016), or the preparation of terrorist acts (2017). Specifically, the terrorism crimes covered by the criminal code are:

- The terrorism crimes (murder, abduction, hijacking, etc.) or preparation for the perpetration of such crimes, with sentences that can range from 6 months to 30 years of imprisonment;
- participation in a terrorist organisation, with sentences from 5 to 10 years;

- participation in the decision-making process of a terrorist group, or leadership of a terrorist group, with sentences from 10 to 20 years;
- incitement to, or recruitment for, terrorism offences as defined in the criminal code, with sentences from 5 to 15 years;
- providing or receiving instructions or training to commit terrorism offences as defined in the criminal code, with sentences from 5 to 15 years;
- travelling from or to Belgium in order to commit terrorism offences as defined in the criminal code, with sentences from 5 to 10 years; and
- material support (including financing) to a person that has or will commit terrorism offences as defined in the criminal code, with sentences from 5 to 15 years.

In light of the wide spectrum of offences covered by the criminal code, but also due to a broad phrasing and interpretation of these articles, the prosecution of female VEOs is not particularly challenging in Belgium. Specifically, the threshold of evidence required to demonstrate the participation in a terrorist organisation is relatively low. “It suffices to demonstrate that the person has taken the plane, or that she sent a text message. Nothing really complicated”, explained a federal prosecutor.¹⁴ The types of activities that have been considered to demonstrate a participation in a terrorist organisation are very broad in scope. Since 2015, a succession of trials has consolidated the reasoning that any type of household activity under the caliphate contributed to the well-being of ISIS fighters and as a result to the functioning of the caliphate.¹⁵ This jurisprudence favouring a broad interpretation with regard to what constitutes support to a terrorist organisation was partly established during a series of trials in absentia, from 2015 onwards. It was facilitated by the absence of contradiction from defence lawyers, and was therefore developed unchallenged.¹⁶ Furthermore, the modification of article 140 of the criminal code in 2016 still further lowered the threshold for conviction. To be recognised guilty of participation in a terrorist organisation, defendants no longer need to be aware that their activities contributed to a terrorist crime, but it suffices that they “*could have been aware*” that their activities “*could contribute*” to a terrorist crime (emphasis added).

In addition to physical evidence collected in Belgium and electronic evidence (from smartphones or computers), Belgian prosecutors can also make use of so-called battlefield evidence to build their cases against female returnees – as they commonly do for male FTFs.¹⁷ This includes notably: birth certificates or other medical receipts from ISIS, authorisations to get married, documents related to a stay in a “house for women”, or documents proving property of a house in ISIS territory.

If the prosecution and conviction of female VEOs has not been particularly challenging in Belgium, it has proven more complicated to demonstrate the level of engagement and specific crimes committed by female VEOs in Syria and Iraq, and to charge them beyond the common offence of “participation in a terrorist organisation”. In this regard, testimonies from other female returnees have been considered a valuable source of information, although not always sufficient to have a full picture. Beyond terrorist offences, Belgium has only rarely prosecuted female VEOs for other domestic crimes or core international crimes possibly committed in Syria/Iraq, compared with some other European countries, notably Germany. One reason is certainly the low threshold of evidence discussed above, which might discourage further investigative efforts. But there’s also another reason: due to the so-called “exclusion clause” in art. 141bis of the criminal code, it is not possible to prosecute individuals for both terrorist crimes and for war crimes under international humanitarian law.¹⁸

The Belgian clause is quite unique in its scope, compared to other countries, in the sense that it covers all types of terrorist offences and any type of armed conflict. As a result, the Federal

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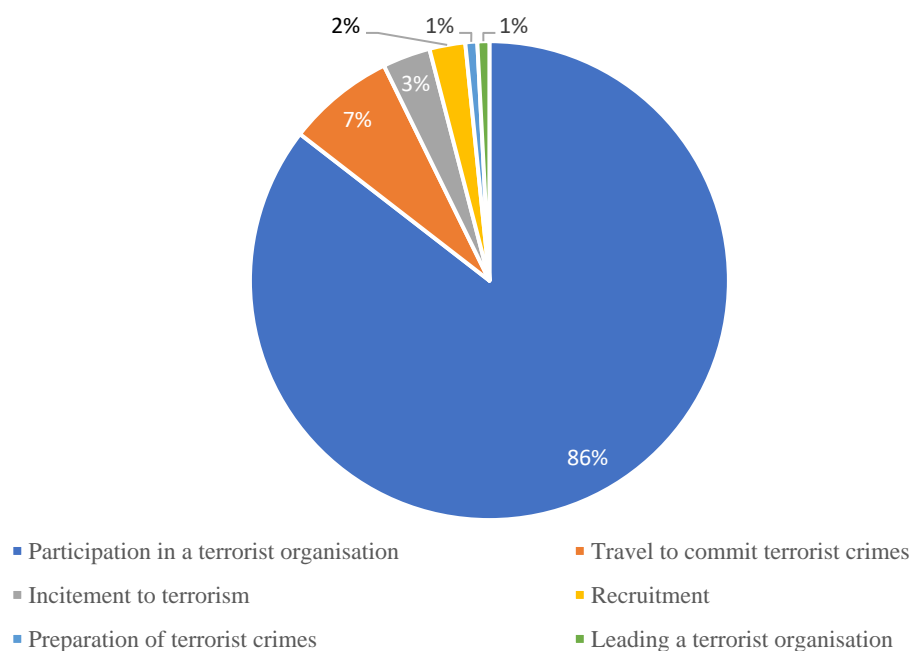


Figure 2.3: Terrorist offences in cases of convicted female VEOs in Belgium since 2012 (n=124; as of 15 July 2023)

Prosecutor’s office decided early on to prioritise terrorist crimes over other crimes.¹⁹ Figure 2.3 shows that 86 percent of the terrorism-related offences pronounced against female VEOs in a final verdict leading to conviction were participation in a terrorist organisation, as this verdict was reached in 106 cases. In other words, almost every woman convicted for terrorism in Belgium was convicted for membership in a terrorist organisation (97 percent), occasionally in combination with another terrorist offence. It also shows that the offence of “travelling for committing a terrorist crime”, which was specifically adopted in response to the phenomenon of terrorist travellers, was very rarely used and only led to a conviction in nine cases. In four cases, a woman was convicted for incitement to terrorism (three percent of all convictions) and in three cases judges found a woman guilty of recruitment for a terrorist organisation (two percent of all convictions). Only one woman was convicted as leader of a terrorist organisation since 2012, Fatima A. (see Figure 2.3).

Of the 120 cases of women in relation to Islamist-inspired terrorism in Belgium since 2012, 11 acquittals were pronounced, and 109 convictions in the final instance. The rate of acquittal for women is therefore relatively low (8 percent), and quite stable over time (three acquittals in 2015, one in 2016, one in 2017, one in 2018, three in 2019).

Among the convicted women, a majority of 58 percent (52 percent of all sentences) were sentenced to imprisonment, either in full or followed by a probationary period. With only one exception, all prison sentences ranged between six months and five years, inclusive the potential probationary period. Indeed, the most frequent charge is membership in a terrorist organisation, which can lead up to ten years of imprisonment by a *Cour d’Assise*. However, for practical reasons – that is, to strongly limit the number of trials by a popular jury, which are more complicated and costly to organise – almost all terrorism trials in Belgium are “correctionalised” – that is tried in a lower court – and as a result the sentence is halved to a maximum of five years.

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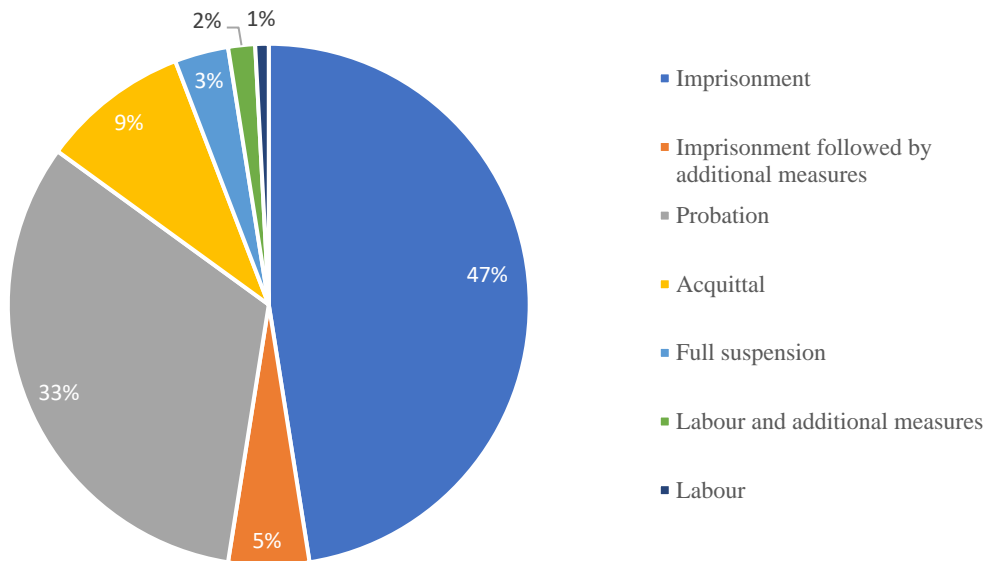


Figure 2.4: Type of sentences handed down in cases of female VEOs in Belgium since 2012 (n=120; as of 15 July 2023)

The Federal Prosecutor will always request (and obtain) the maximum sentence of five years during trials in absentia. Fifty women have been tried in absentia since 2012. In contrast, when the defendant is present or represented, the Federal Prosecutor will plead with more nuance in order to reflect more closely the actual crimes committed and the defendant's intentions. However, with a maximum possible sentence of five years imprisonment, there is "very little flexibility in the spectrum of possible sentences", in the words of a federal prosecutor, and as a result, little difference in the sentencing of individuals who have possibly committed very different crimes.²⁰ Figure 2.4 shows the distribution of sentences for female VEOs since 2012, in final instance.

There was one exception with regard to prison sentences: Fatima A., a long-time figure of the jihadi scene in Belgium, and friend of the other female jihadi veteran, Malika el-Aroud, as well as of Khalid Z., one of Belgium's main recruiters for the Syrian jihad.²¹ Fatima A. was convicted as "leader of a terrorist organisation" to eight years of prison in first instance in 2015, and to fifteen years in appeal, in 2016 – an exceptionally long sentence, particularly for a woman, pronounced just three weeks after the deadly Brussels attacks on 22 March 2016. When excluding women convicted in absentia (all sentenced to five years in prison), most women sentenced to imprisonment benefitted from a probationary reprieve and some even benefitted from a suspension of the sentence (ordinary or probationary), which according to a Federal Prosecutor is less often the case for male extremist offenders – although the author was not in a position to confirm this claim.²² The average length of the prison sentence pronounced in association with probationary reprieve is 31 months.

In addition to the sentence rendered by the courts, several female VEOs have been stripped of their Belgian citizenship in cases when they had acquired Belgian nationality, and they had another citizenship. Whereas such decisions were truly exceptional in the past, the Federal Prosecutor's Office has decided to request it systematically every time it pleads for the maximum penalty. As a result, eleven women were stripped of their citizenship between 2019 and 2022 in a criminal proceeding (eight of which in absentia), and an additional three women lost their citizenship as a result of civil procedure since 2017 (and three more still pending).²³

In either procedure, the vast majority of these women had Moroccan nationality. Following this decision, these women face an expulsion procedure at the end of their prison sentence.

Finally, it is worth mentioning here two kinds of mitigating and aggravating factors that have informed court decisions on female VEOs. First, some of the women that were most recently repatriated, in 2021 and 2022, have seen their sentence reduced as the judge followed the reasoning of defence lawyers, who almost systematically pleaded that their clients had already spent several years in detention in Syria. Second, several female VEOs (particularly among returnees) had children. This factor has sometimes been considered an aggravating factor, when the court considered that the mother put her child(ren) in danger by taking them to a war zone. Yet, it has also been considered as a mitigating factor, when the court concluded that the separation of the mother and her child(ren) was counter-productive to both the child’s well-being and to the mother’s perspective of reintegration.²⁴

Prison Management

Overview of Female VEOs in Prison

Until the mobilisation for the jihad in Syria/Iraq, the management of female VEOs had never been a concern for the Belgian penitentiary administration. Prior to 2012, only two women (Pascale Vandegeerde and Malika el-Aroud) had been convicted and jailed for terrorism, although not at the same time. However, the population of female VEOs in prison increased significantly over the past decade, as more women were arrested, detained, prosecuted, and eventually convicted, including a number of women returning to Belgium after the fall of ISIS’s so-called caliphate. Figure 2.5 shows the rough evolution of the number of female VEOs detained in prison since 2015.^{vii}

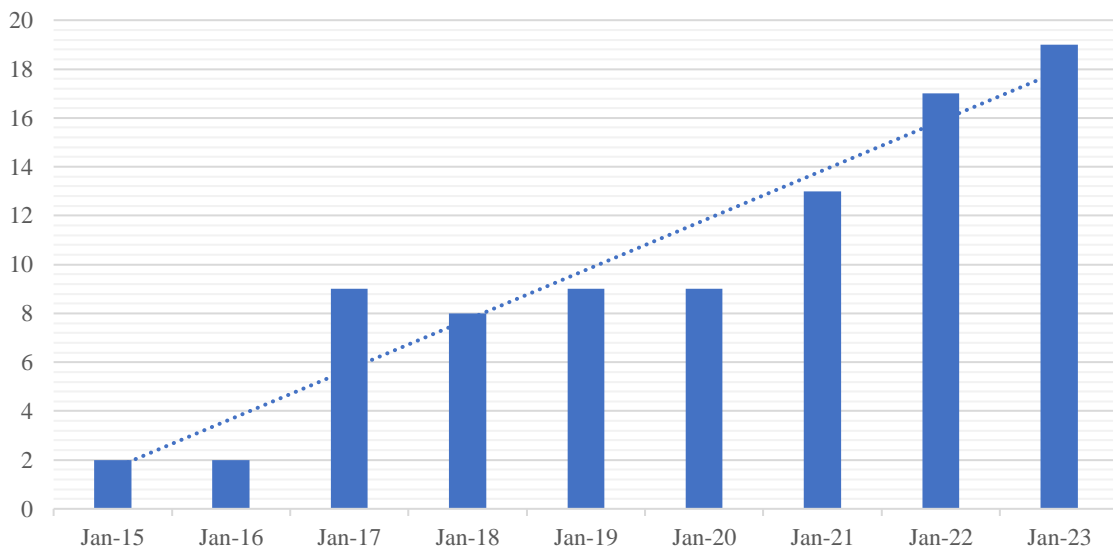


Figure 2.5 Number of female VEOs in Belgian prisons over time (data provided by the Belgian Penitentiary Administration; as of 22 May 2023)

^{vii} The numbers should be read carefully. They represent a “snapshot” of the population of female VEOs at a certain moment (31 January, year-on-year), while recognising that these numbers are extremely fluid, notably because they also include individuals in pre-trial detention. Although exact numbers might change rapidly, the overall trend seems to correspond to the reality, as experienced by the administration.

According to one prison director who managed more than ten female VEOs in her establishment over the past few years, the arrival of that “new” population was at first “stressful, with a lot of preconceived ideas.... They were perceived as terrorists, dangerous. There was a lot of suspicion. It took some time for my staff to start seeing the human beings behind the terrorist women, and to realise that they were inmates quite easy to manage overall.”²⁵ Indeed, prison staff managing female offenders had not received any specific training, as priority had been given to staff managing male terrorist offenders in certain prisons. “We were not prepared at all”, stated the director, while also considering “what time and resources should we have invested in staff and training, given the very small target population of female VEOs?”²⁶ In 2023, there are still no real trainings available for prison staff specific to female VEOs, with the exception of one “study day” organised in 2022, following the repatriation of six women and sixteen children in June 2022.²⁷

Despite their growing number, female VEOs remain a negligible quantity in the penitentiary system. As of May 2023, there were eighteen female VEOs in Belgian prisons. As such, they represent a small minority group, within two broader minority groups. They are a minority of the terrorist prisoner population (n=140), as well as a minority of the female prisoner population (n=500, about 4 percent of the total incarcerated population in Belgium). Furthermore, female VEOs are spread across several detention facilities, and therefore constitute a very negligible group within each prison. There are nine prisons with special sections for women in Belgium, from a total of 37 prisons. It is therefore unsurprising that they have received so little attention.

The vast majority of incarcerated female VEOs (twelve) were listed by the prison administration as FTFs – all returnees. There were also two “potentially violent extremists”, one “hate preacher”, one “homegrown terrorist fighter” – categories that reflect those from the Common Database. In addition, two women were also categorised by the penitentiary administration as “terrorist - EPI”^{viii} or “violent extremist prisoner - EPI”^{ix}. The majority of returnees in the contingent clearly reflects the two recent waves of repatriation conducted by the Belgian authorities since 2021. Most of these women (except for four) were convicted in pre-trial detention.²⁸

Overall, female VEOs are considered to pose a moderate risk level in prison. Compared with men, they have not (yet) presented a “physical risk”, such as aggression or evasion.²⁹ With regard to radicalisation or recruitment of other inmates, female VEOs do not seem to be considered a serious risk by key stakeholders. In contrast with what has been observed with men, female VEOs do not seem to attempt to radicalise others, nor do they benefit from a “special status” in the eyes of other inmates, and rarely speak about religion with other inmates.³⁰ Some women have a strong personality, but only a few are showing leadership, and therefore a risk of proselytising. Only one woman is categorised as a “hate preacher”, and thus constitutes a potential risk for others. Prison authorities monitor very closely the possible influence exerted by female VEOs over other vulnerable inmates, but no cases of radicalisation have been reported so far. It is not entirely clear why female VEOs behave differently from men in prison, but part of the explanation could be that many returnees had already (started to) disengage from violent extremism prior to their return.

^{viii} This category is for individuals previously in the Common Database but that were removed, after their threat level remained low for over two years.

^{ix} This category was created for individuals that are not included or not yet considered for inclusion in the Common Database but are monitored by the penitentiary administration in light of their extremist behaviour, attitude or discourse within the prison.

The Management of Female VEOs

When women enter prison, even under pre-trial detention, they are generally subject to individual security measures, notably isolation, during the first seven days. Although such measures are exceptional for non-extremist offenders, it is common with extremist offenders. It gives time to the prison staff to get to know the inmate, evaluate their level of risk, and receive all necessary information from partner services. Although security measures can be renewed over time, they seem to be limited in time, generally to a week, particularly for female VEOs, as prison staff have now become more familiar with their profiles.³¹ Generally speaking, the security tension surrounding female VEOs seems to have relaxed, as also confirmed by a rehabilitation officer who considers this evolution as more conducive to rehabilitation and reintegration.³²

Beyond these individual measures, there are specific “instructions” for prison staff regarding the monitoring of extremist offenders – it is noteworthy that these instructions make no difference on the basis of gender. According to these instructions, female VEOs are subject to daily observations regarding their behaviour, relations with other inmates or staff, as well as external contacts (visits, phone calls, mail, etc). These observations are shared weekly with the prison directors and psycho-social service and compiled every other month in a report shared with the Extremism Cell (Celex) and with the *Service Psycho-social Central Extrémisme* (SPSC(Ex), or Central Psycho-Social Service Extremism) unit of the central penitentiary administration, which are responsible for the general screening and monitoring of extremist offenders in prison. Celex and SPSC(Ex) can formulate advice on the management of radicalised inmates,³³ and Celex can also feed information into the Common Database on extremists – information that becomes then accessible to other services, also outside prison.³⁴

Weekly observations allow staff to identify potential problems regarding female VEOs, and to respond to them, eventually in concert with other stakeholders (psycho-social services [SPS], imams, social support services, etc). However, according to one prison director, these reports are mostly “uninteresting”, “empty”, as female VEOs are generally “quiet, [not] troublesome inmates”.³⁵ The gap between the perception of dangerous women and the reality of their behaviour in prison results in observations that tend to oscillate “between paranoia and banalisation”, according to a prison director.³⁶ One official from the prison administration wondered whether there is not a certain “loss of alertness” or a form of “complacency” among prison staff, fearing some women might be hiding their ideology and intentions, that we “might be missing something”, although another stakeholder disagreed with that view.³⁷

In addition to the observations by the prison staff, all extremist offenders (men and women) are potentially monitored by a dedicated unit of the Belgian intelligence State Security Service, otherwise known as the VSSE, including by deploying surveillance techniques in prison. There is a cooperation agreement regulating information exchange between the VSSE and the penitentiary administration.³⁸ Furthermore, the so-called “Group Prison”, under the national strategy against extremism and terrorism, gathers the VSSE, CUTA, Celex and the police, and meets once or twice a month to discuss specific extremist offenders in prison, contextualise information, and eventually decide on particular measures to be taken.

Female VEOs in prison are spread across all nine detention facilities, so that they are separated from one another and mixed with regular female inmates as much as possible. This corresponds to the so-called “diffusion regime”, also applied to men. The objective of this regime is to limit the risk of radicalisation and to facilitate the rehabilitation and reintegration of these women, through normalisation – as opposed to exceptionalism.

For male VEOs, prison authorities can still separate individuals that display a highly radicalising or proselytising attitude in special wings, called “Deradex units”. This option does not exist for women, but that does not seem to be a problem, according to the consensual assessment of the interlocutors interviewed for this project. Female VEOs are not perceived as trying to radicalise or recruit other inmates, and they generally “stand aside and behave well” during their detention, awaiting liberation.³⁹ “Deradex units” had been severely criticised by some watchdog organisations.⁴⁰ Even within the penitentiary and security services, not everyone was convinced of the added value of these units.⁴¹ And indeed, most Deradex cells are now occupied by regular inmates. In Summer 2022, there were only four male individuals still detained in one of the two Deradex units, and only one last individual in late 2023, despite a total of 40 available places.⁴²

The small size of the units for female prisoners makes surveillance much easier compared with men, and therefore radicalisation or recruitment more complicated. “It’s a real advantage. It’s hard for inmates to conceal anything from us, and we hear things very quickly. As a result, we can also intervene very quickly when needed.”⁴³ Yet, the small size of the units and their limited number overall also have downsides, not least in a situation of carceral overpopulation (in Belgian prisons in general, but also in units for women). The placement options for female VEOs are quite limited, which can create specific challenges (limited capacity to move people in case of trouble, limited capacity to ensure geographical proximity with family, etc.). Furthermore, the incarceration of a significant number of female VEOs at once (e.g., in case of a big repatriation operation, or theoretically as result of the arrest of an all-female network) could put the prison system under stress.

One specificity of female returnees is that several of them returned or were repatriated with their children. Detention or conviction does not automatically strip custody of the children, and it is generally considered important to maintain an ongoing relationship between mothers and children, particularly for children that grew up in the Syrian camps. If needed, children can stay with their mother in prison until the age of 3 years old. If children are placed with the family or in institution, they can visit their mother every day if she is in pre-trial detention, or three times a week when convicted. Visits can be mediated by an external assistant, or unmediated (with a family member), depending on the context.

Risk Assessment

Once the female VEO is convicted, a more formal and structured risk assessment will be conducted by the penitentiary psycho-social services (SPS), using the VERA-2R risk assessment tool.^x For these assessments, the evaluators have access to all judicial files (the investigation case), observations from prison staff, interviews with inmates, and a summary of the threat analysis done by CUTA. Since these risk assessments occur relatively late into the detention period, they are not meant to inform detention regimes (which is covered by the observations and bi-monthly reports), but formally designed to monitor the inmate’s detention trajectory and inform decisions about early release.⁴⁴ As of June 2023, “about 20” female VEOs had been evaluated through this process⁴⁵ – indicating the approximate number of women that remained in prison beyond pre-trial detention since 2015. For women that are subject to alternatives to detention after their conviction, the same risk assessment is conducted by so-called Houses of Justice (through justice assistants). It is interesting to note that VERA-2R is a gender-neutral risk assessment tool, as risk factors are the same for all persons evaluated,

^x This is in contrast with the practice in some other countries, notably the Netherlands, where risk assessment with access to judicial files can be conducted earlier in the process.

although gender-specific aspects can play out in contextual questions (e.g., about the role of partner, children, etc). The VERA-2R training that all Belgian SPS officers must attend has included some case studies about women for some years already.⁴⁶

Some stakeholders feared that the latest female returnees repatriated might be more “ideologically radicalised” than previous ones, although there is no consensus around that perception.⁴⁷ Some stakeholders also noted a distinction between female returnees “who experienced trauma and disillusion” and those who failed or did not attempt to travel and remain therefore “more committed to the ideology, and lack perspective”.⁴⁸ These concerns relate to a broader fear among some European policy-makers about so-called “false compliance” of terrorist offenders, suspected of concealing their radical ideology during detention. It is indeed not uncommon for female VEOs that their discourse shows some discrepancy with their narrative in prison. As there is only limited evidence of what they did in Iraq and Syria, there will always be some lingering suspicion about their state of mind.

False compliance is not impossible, but it is largely considered unlikely given all the mechanisms in place to detect it.⁴⁹ Female VEOs are closely observed in prison, and through the risk-assessment evaluation it is possible to confront these women with what is in their files or what other female VEOs reported. Rehabilitation officers concur that it would be difficult for these women to conceal their stories under the intensity and frequency of these programmes.⁵⁰ If women are found out to conceal or lie, it is not considered a risk factor as such, but will introduce suspicion and distrust about the rest of their narrative. One stakeholder pointed out that “false compliance” could also be considered the other way around. For example, several women repatriated from Syria had to dissimulate their disillusion and disengagement from other women in the camps for a long period of time and are now suspected of concealing their ideology.⁵¹

Exit Modalities

The release of female VEOs can be prepared in different ways, but notably through so-called “modalities of sentence’s execution”, that is, the possibility to allow an inmate to exit prison progressively, either through very temporarily releases (e.g., for a few hours or days) or more structurally (e.g., electronic surveillance regime, limited detention, or conditional release). The decision on the modalities varies based on the nature of the modalities and on the length of the conviction. In a nutshell, it is the prison director or the DGD (i.e. the Minister of Justice) who can decide on short-term leaves or provisional liberation, and it is a special judge or a Tribunal that is competent to decide on longer-term leaves.⁵² Over the years, the rules have been hardened for granting special leave modalities for terrorist convicts. Just after the November 2015 attacks in Paris, it was decided that the procedure for terrorist convicts would differ from other convicts, transferring the formal decision power from the prison director to the Minister. As a result, due to political sensitivity, temporary or conditional releases became less systematically granted. In 2019, a new law also imposed to the penitentiary administration and to the special judges to more systematically justify their decisions, notably on the basis of a report from the psycho-social services.⁵³ A number of stakeholders have clearly stated that this regime of exception, resulting in a harder process for terrorist convicts to benefit from special modalities, is counter-productive as it creates frustration and grievances among VEOs through its lack of clarity and arbitrariness.⁵⁴ In one specific case, for instance, in 2021 the Justice Minister blocked the release of a female returnee at the very last minute, undermining the reintegration process that had been in the making for some time. The female returnee had to wait much longer before being granted a release, resulting in some tensions.⁵⁵ However, more

recently, the granting of modalities to female VEOs seems to have softened again, at least according to one interviewee.⁵⁶

Rehabilitation and Reintegration

Rehabilitation in the Prison-exit Continuum

Reintegration of female VEOs should ideally be initiated already during detention. Temporary or conditional releases are a standard approach to facilitate reintegration of inmates in Belgium, although not always possible for terrorist offenders for the reasons mentioned above. On the Dutch-speaking side of the country, a specific multi-agency case review mechanism has been established in order to discuss terrorist offenders' detention trajectory and prepare their reintegration process before release. The so-called *Casus Overleg* gather the prison director, local SPS, the justice assistant designated for the probation, Celex, SPSC(EX) as well as CAW's Team Extremism (the rehabilitation service – discussed below). These meetings occur about four times per year in every prison, to discuss the case of each terrorist offender detained, notably focussing on what could be done with the inmate to facilitate their reintegration.⁵⁷ The presence of the probation officer is important to ensure continuity of support from prison to release (if release occurs under conditions or probation), as it allows them to start working on a reintegration plan before the actual release, as well as to have access to key information from prison services. At this moment, this case review mechanism is only available for terrorist offenders – and not to other inmates – and only in the Dutch-speaking part of the country. There is a law proposal under consideration to formalise the work of the *Casus Overleg*, and expand it to the entire territory, through so-called Penitentiary Cells of Integral Security. Two pilot projects are ongoing at this stage, but some stakeholders are reluctant, notably social actors (CAW and CAPREV, specifically), which fear that such platforms could put pressure on their confidentiality agreements or the trust relationship they seek to build with their beneficiaries, not least in the absence of a clear legal framework regulating participation and the exchange of information.⁵⁸

Rehabilitation programmes are another key part of the reintegration process. These programmes can take place in prison as well as outside prison or continue throughout the release process. The two main organisations responsible for rehabilitation programmes in Belgium are active inside and outside of prison. On the Dutch-speaking side of the country, the main service responsible for rehabilitation of terrorist offenders, including female VEOs, is the Team Extremism of the Centre for General Social Welfare (CAW), a small service of four individuals. On the French-speaking side, it is the Centre for the Support and Management of Radicalisms and Violent Extremisms (CAPREV), a larger service of nine members, established in 2017.

Although they are different organisations, CAW and CAPREV operate in a similar manner. They both develop tailored, multi-disciplinary support, under strict professional secrecy, with the view to encourage extremist offenders' critical self-introspection, and to prepare for their reintegration. They also seek to rebuild trust in the democratic system and its institutions, starting with trust in their own service, as this trait is considered essential to accepting cooperation with all services that seek to facilitate their reintegration. The programme's objectives are co-defined with the beneficiary, although they can also be partly determined by a judicial mandate under probation measures (when relevant). Based on the individuals' needs, these services can offer different types of expertise (psychological, ideological, social, etc) and can also mobilise a broader support network around inmates and reorient them towards other

support services when relevant. Such other services include therapists, social workers, as well as religious counsellors (including female Muslim counsellors).

In prison, CAW and CAPREV operate on a voluntary basis, and rehabilitation cannot therefore be imposed on inmates. Outside prison, rehabilitation programmes can be mandated under a judicial mandate (as part of probation, for example), or on a voluntary basis. Minor differences between both services include the fact that CAPREV always operate under “co-intervention” (with two CAPREV officers designated as referents),^{xi} whereas CAW favours one-to-one sessions. CAW seeks to proactively identify and reach out to extremist offenders, to offer their services, whereas CAPREV initially took a more passive approach – although in the case of female returnees repatriated, CAPREV proactively sought to make its offer known.⁵⁹ Finally, CAW’s rehabilitation work always starts in prison and can continue outside prison; in contrast, CAPREV programmes can equally start in prison or outside prison.

Rehabilitation meetings with beneficiaries occur quite regularly, particularly at the beginning of the programme (about every week for the CAW, “an intense start to build trust and relationship”;⁶⁰ about twice a month for CAPREV). The average duration of CAPREV’s support for female VEOs is two years.^{xii} From 2017 (when it was established) until 1 June 2023, CAPREV has worked with 40 women “concerned with extremism” comprising 25 percent of its total cases with extremists. As of 1 June 2023, CAPREV was still working with nineteen women (27 percent of its cases), including three in detention and thirteen under judicial mandate.⁶¹ From 2017, CAW’s Team Extremism has accompanied eighteen female VEOs (sixteen of which were after 2019) comprising 15 percent of its cases.^{xiii} As of 1 August 2023, CAW was still working with twelve women (25 percent of its cases), including eight in detention and four under conditions or electronic surveillance.⁶² As of August 2023, a total of 58 female extremists had therefore attended the two main rehabilitation programmes in Belgium, since 2016.^{xiv}

Gender-sensitive Considerations

Rehabilitation stakeholders in Belgium have not developed distinct programmes for female VEOs. They recognise that female VEOs might have radicalised with specific motivations or vulnerabilities, such as belonging to a particularly conservative environment (and as counter-intuitive as it might sound, for some women “travelling to Syria was a cry for freedom”⁶³), and returnees might have developed specific traumas. However, since rehabilitation programmes are tailored to individuals’ needs, and the specificities of each beneficiary are always accounted for – whether a man or a woman, returnee or not. Perhaps the only gendered consideration for CAW is that the service always offers beneficiaries to meet with either a male or female officer, as some VEOs might open up more easily or trust more certain profiles (one example was given of a former sex worker who was not comfortable to share their story with a male counsellor).⁶⁴ CAPREV officers interviewed for this project explained that an internal reflection was organised several years ago to question their own gender-based perceptions and bias vis-à-vis female VEOs, when confronted with a rising number of female returnees. While this reflection was considered interesting by our interviewees, it does not seem to have led to a different

^{xi} However, both referents do not always need to be present at the same time during the intervention.

^{xii} Average calculated on 21 closed cases since 2017.

^{xiii} Between 2017 and 2020, rehabilitation work was conducted by the same team under the authority of the Flemish ministry of social welfare, before a transfer of competence and staff to CAW, a non-government non-profit organisation.

^{xiv} It is noteworthy that this number may include women that were neither convicted nor prosecuted for terrorism.

approach by CAPREV, and there are no specific guidelines or checklist based on the gender of beneficiaries.⁶⁵

In the case of rehabilitation and reintegration of female VEOs, children are considered a potential factor of resilience as well as vulnerability. Children can be a motivation for women to behave well in order to be granted an earlier release. In contrast, women that lose contact with their children or who suffer when they hear the distress of their children can be negatively impacted, as it can lead to despair and frustration, which in turn can hamper their rehabilitation and reintegration perspectives.⁶⁶

Post-release Measures and the Risk of Recidivism

Once female VEOs are released from prison, they remain generally under the judicial control of a justice assistant, as part of probatory measures decided by the correctional court or as part of a conditional release decided by a special court unless they remained in prison until the very end of their sentence, which is extremely rare. Similar to the process for “ordinary” convicts, justice assistants support VEOs with basic administrative necessities (like finding accommodation, employment, or training) while ensuring compliance with the release conditions or probatory measures.⁶⁷ When mandated, CAW and CAPREV have clear procedures for cooperation with justice assistants, in order to share key necessary information (such as presence or repeated absence to the sessions) while respecting confidentiality. When a rehabilitation programme is mandated, CAPREV or CAW will usually be designated.^{xv} However, on the Dutch-speaking side, there is an additional organisation that is sometimes mandated under probatory measures to provide ideological guidance to released VEOs, called the Centre of Expertise and Advice for Prevention and Intervention of Radicalism and Extremism (CEAPIRE). Notably, all these services (CAPREV, CAW, and CEAPIRE) can prolong their support beyond the probatory period or even when it is not part of the measures, on a voluntary basis.

In terms of probationary measures, it is important to distinguish the general, mandatory measures (which apply in every case) from the specific measures (which can vary from one person to another). Mandatory measures are:

- not committing another criminal offense;
- have a fixed home address and communicate any change to the justice assistant; and
- respond to invitations from probation commissions and justice assistants.

Specific measures can include, notably:

- abstain from contact with known extremists or terrorist convicts (and warn authorities when approached by such individuals);
- not leaving the national territory without permission;
- not consulting internet pages linked to extremism or terrorism;
- not administering or feeding personal website or webpage (including social media);
- participate in a disengagement or deradicalisation programme;
- respect modalities regarding contact with children; and
- search for a job and/or attend professional training.

^{xv} Other services have sometimes been mandated or mobilised, particularly prior to the creation of these services, but CAPREV and CAW are now the main stakeholders in Belgium with regard to disengagement.

Independently from any probation period, female VEOs are systematically monitored by relevant services – similarly to male VEOs – through two distinct multi-agency platforms. Local Tasks Forces (LTF) are a security platform gathering intelligence services, CUTA, police, local prosecutors, and the immigration office, at the judiciary district level. They meet monthly to discuss individuals listed in the Common Database, and eventually decide on administrative or security measures. Local Integral Security Cells - concerning radicalism, extremism, and terrorism (LISC-R) are a socio-preventive platform gathering local authorities, socio-prevention services, local police as well as potentially other services (rehabilitation services, justice assistants, youth workers, etc), at the municipal level. The purpose of this platform is to identify and support individuals that are in an early process of radicalisation, or in an advanced stage of disengagement, by coordinating responses from local socio-prevention actors. The so-called “information officer” from the police attends both LISC-R and LTF and ensures coordination and information flow between the two platforms.⁶⁸

The main concern following the release of VEOs is the risk of recidivism. Cases of terrorist recidivism, defined as two separate convictions for distinct terrorist offences, are extremely rare in general, and therefore also for female VEOs. In Belgium, only two women have been convicted twice, for two distinct terrorist offences. Furthermore, as observed by a Federal Prosecutor, the risk of recidivism into *violent* extremism is quite unlikely: “as many of these women didn’t commit violent acts themselves while in Syria, why would they commit such acts here in Belgium?”⁶⁹

The first case of terrorist recidivism was Maria G. She was convicted in 2015 for having joined ISIS in Syria with her husband and daughters in 2013. Between her conviction in first instance (2015) and in appeal (2016), she attempted to travel back to Syria with her daughters and was convicted for it in 2017. The other case is that of Kaoutar B., first convicted in 2015 for incitement to terrorism (specifically for threatening a Belgian politician) from Syria, and then again convicted in 2018 for participation in a terrorist organisation. However, in the latter case, she was tried twice in absentia as she remained in Syria the entire time. Since there is a clear overlap in the indictment periods, and no clear separation between the two offences, this case might formally qualify as terrorism recidivism, but would not qualify as terrorism re-engagement (since there was no disengagement period between the two offences marked, for example, by an arrest or prison time).⁷⁰

Two additional cases appear particularly relevant to mention, in the context of recidivism. Yusra B. had travelled to Syria to join ISIS in 2015 and returned in 2016. She was arrested upon her return, but once released she allegedly attempted to travel back to Syria with her younger sister (a minor) and was arrested again in 2017. A few months later, after being released under conditions but not yet judged, she incited her followers on social media to commit a terrorist attack in Brussels in 2018. She was released again a year later under conditions, but re-arrested shortly afterwards in 2019, suspected of trying to leave for Syria again. In November 2020, she was convicted for this entire sequence to 55 months of prison, with a five-year reprieve period beyond pre-trial detention. However, in January 2023, she was once more arrested in Hungary, in breach of her conditions, suspected of seeking to rejoin ISIS in Turkey, or possibly Syria.⁷¹ Yusra B’s case is quite an exceptional case of multiple re-offending, likely reflecting an uninterrupted ideological commitment, as well as being impermeable to preventive and repressive measures, in a span of just seven years.

Habiba C., Maria G.’s daughter (see above), is also a particular case. She first travelled to Syria in 2013 as a minor (16 years old) and returned pregnant. She attempted to travel back with her mother, sisters, and young daughter in 2015, as an adult. She received a suspended sentence in 2017.

Finally, Anissa C. is a clear case of terrorist re-engagement, that is not counted as terrorist recidivism. Indeed, she was convicted in 2019, in a single decision, for two distinct cumulated offences. She was first arrested in 2017, after threatening to commit a terrorist attack, and then again in 2018 after attempting to travel to Syria, after her release under conditions.

Although cases of recidivism remain exceptional, several interlocutors referred to a broader fear that some of these women might remain stuck within an extremist ideology. Although not illegal per se, it can be perceived as a societal challenge (undermining social cohesion, or democratic foundations, for example), as well as a potential risk for the future. For instance, some of these women could be at a higher risk of rejoining a terrorist group in several years, or seek to raise their children with a violent extremist ideology.⁷² Some women also seem eager to remain within an extremist milieu, or unable to escape it, for instance returning to a radicalized husband.⁷³ A 2021 study by CUTA, which reviewed 67 female VEOs convicted in Belgium, found that 26 percent of them were evolving positively or showing signs of a positive evolution, whereas 15 percent were not showing signs of a positive evolution. For the remaining 59 percent, there was either not enough information or no certainty on the direction of the evolution.⁷⁴ These numbers suggest that rehabilitation and reintegration is certainly possible, but that it might be a long and uncertain process.

In spite of the uncertain outcomes of disengagement trajectories, some stakeholders remain optimistic. According to the CAW officer interviewed, all female VEOs that have thus far left prison after attending their rehabilitation programme “are doing well.”⁷⁵ Yet, our interlocutors recognised that “desistance is always fragile” and that they must “be cautious in defining success.”⁷⁶ Some success criteria that they identified include:

- women that understand and accept the consequences of their actions;
- women that can explain their trajectory into extremism, including to potential employers or to social or security services;
- women that have come to peace with their past, and can identify a new life trajectory;
- women that gained more self-confidence and positive identity construction;
- women that have again a sense of purpose, and something to do during the day;
- women that have (re)built positive relations and networks (direct social environment); and
- women that know how and where to ask for help and do it if needed (professional network).

Conclusion

The issue of female VEOs is relatively new to counter-terrorism stakeholders in Belgium. Despite some anecdotal precedents, the issue really gained prominence with the exodus of a significant number of Belgian nationals to join the so-called caliphate of ISIS after 2012 including about one hundred women. Since then, the approach to women has significantly evolved. Originally, it was characterised by a situation of certain neglect and ignorance, as women were not systematically investigated or prosecuted due to a gender bias, the prison system was not trained or equipped to manage female VEOs, and rehabilitation programmes did not exist. Following the growing number of women returning from Syria, a more systematic prosecution started from 2015 onwards, and a jurisprudence considering female VEOs as full members of a terrorist organisation started to take shape, rather than victims or mere auxiliaries. As a result, the penitentiary system, rehabilitation, as well as probation officers became increasingly confronted to this new population, and new approaches were progressively

implemented, essentially replicating the approach to male VEOs. Almost all stakeholders interviewed considered female VEOs to be different from male VEOs in many ways, and yet did not consider the need for a completely different approach, considering the tailored nature of the current ones.

The two repatriation operations conducted by the Belgian government in 2021 and 2022, which brought back sixteen women with their children, also contributed to the growing number of female VEOs in the penal system. Initially, the Belgian government had opposed the return of its citizens from Syria, including women, considering that it was not in the country's interest.⁷⁷ Under the advice of the federal prosecutor's office and of CUTA's director, expressing themselves publicly in favour of the repatriation of all Belgian citizens, the government started to repatriate children in 2019, and then women. Several Belgian nationals remain in detention in Syria, including some women, but they are currently not considered eligible for repatriation.

Overall, about 50 percent of the women who travelled to Syria have returned, and a few more could still return – a much higher rate than among men (whose rate of return is around 30 percent). Furthermore, women represent a third of adult returnees in Belgium. As such, female VEOs represent a significant contingent through which the caliphate's legacy could survive and, therefore, require particular attention. Despite low recidivism rates – among men and women – there is a need for long-term monitoring measures, including both rehabilitation and security measures.

Case Study: Julie B.

Julie B., a young woman from Belgium (born 1989), converted to Islam when she was 17-18. She radicalised in the summer of 2014, and travelled to Syria in January of 2015 with her five-year-old daughter, without informing the girl's father. Two days after her arrival in Syria, she married Yassine L. in a religious ceremony. Yassine L. was a prominent IS fighter known to the Belgian authorities, whom she had previously met and conversed with online. After only a couple of months in Syria, Julie B. decided to attempt to come back to Belgium, with unclear motives. On 1 April 2015 the Turkish authorities intercepted Julie B. and her daughter. They were deported to Belgium on the 30 April.

Upon her return to Belgium, she was arrested and charged with the participation in the activities of a terrorist group, ISIS, under article 140.1 of the Belgian Penal Code. As such, the case focused on proving her participation in the group's activities. Despite her denials, the court considered that all the evidence shows that she consciously sought to join ISIS.

First, she travelled directly to Raqqa, which was then notoriously the capital of ISIS, a fact she was clearly aware of, as shown by electronic messages she shared.

Second, she met Yassine L. on Facebook. On his profile, there were multiple photos and videos where he appeared in combat outfits and with other combatants, and several posts in which he announced to have joined ISIS and offering help to individuals wishing to travel to Syria to take part in the armed jihad.

Third, her intentions were proven by her activities on social media, where she liked and shared texts and images relating to ISIS. Furthermore, in online exchanges with her ex-husband and family members she stated that she was hoping for an Islamic state to be installed in Belgium and in the rest of Europe. As such, the court considered that there was no doubt as to the intentions of Julie's journey to Syria.

Nevertheless, for a conviction, the commission of material acts of contribution to the terrorist objectives of the group are necessary. The court considered that Julie B. fulfilled this requirement for the following reasons:

1. The court considered that by marrying and living with an Yassine L., she supported the activities of the group, by offering direct support to one of its combatants.
2. The court considered that she voluntarily financed the group by bringing €3,000 from the sale of her car, which inevitably served "the cause" as she offered the money to her new husband.
3. The court considered that Julie B. consciously and actively contributed to the propaganda of the group, by participating in its online activities, and in exchanges with her ex-husband and family members.
4. The court considered that she deliberately contributed to the indoctrination of her five-year-old daughter by bringing her to an IS administered region, placing her in a school affiliated with ISIS, and introducing her to a new family unit, where Yassine L. notably trained the young girl to use an automatic rifle.
5. Finally, she helped her husband sell several weapons to another ISIS fighter, allegedly to finance her travel back to Belgium.

The court also noted that certain elements suggested that she was possibly planning to commit violent actions upon her return. Notably, she had mentioned to a friend her intention to “die as a martyr”, and on Facebook she wrote “if I return, it’s to blow everything up, LOL”. However, due to limited evidence, there were no specific charges laid against her regarding the plotting of a terrorist attack.

In the court’s final verdict delivered in November 2015, Julie B. was convicted for her participation in the activities of ISIS, and sentenced her to three years of imprisonment, with a probationary reprieve for half of the sentence, and a fine of €1,800. The indoctrination of her daughter, her possible violent intentions, and the absence of signs of deradicalisation were considered as aggravating factors in the sentencing decision, although her lack of criminal history was considered a mitigating factor. Some of the probation measures included to participate in a rehabilitation programme and not to interact with any person convicted for terrorism or showing jihadi radical beliefs.

In a separate court case initiated by Julie B.’s ex-husband, she was summoned in 2017 for the kidnapping of her daughter. In first instance, the court considered that no additional sentence was needed, in accordance with the principle of sentence absorption, because she had already been recognised guilty for abduction. However, in January 2018, the court of appeal condemned Julie B. to an additional two years of imprisonment for the kidnapping of her daughter, although fully covered by probationary reprieve.

Source: Case FD35.98.97/15, Julie B., Tribunal de Première Instance Francophone de Bruxelles [Francophone Court of First Instance of Brussels, 6 November 2015, on file with the author; see also: rtbf.be, "*Rapt parental: deux ans de prison avec sursis pour avoir emmené sa fille en Syrie*," [Parental abduction: two-year suspended prison sentence for taking daughter to Syria] 12 January 2018, <https://www.rtb.be/article/rapt-parental-deux-ans-de-prison-avec-sursis-pour-avoir-emmene-sa-fille-en-syrie-9808623>.

¹ Thomas Renard, “Overblown: Exploring the Gap Between the Fear of Terrorist Recidivism and the Evidence”, *CTC Sentinel* 13:4, April 2020, pp. 19-29. <https://ctc.westpoint.edu/overblown-exploring-the-gap-between-the-fear-of-terrorist-recidivism-and-the-evidence/>.

² Interview with CUTA, online, 6 June 2023.

³ Le Monde, “*En Belgique, arrestation de sept « partisans de l’Etat islamique » soupçonnés de préparer un attentat*,” [In Belgium, arrest of seven “Islamic State supporters” suspected of preparing an attack] 4 May, 2023, https://www.lemonde.fr/international/article/2023/05/04/en-belgique-arrestation-de-sept-partisans-de-l-etat-islamique-soupconnes-de-preparer-un-attentat_6172104_3210.html.

⁴ Belga, “*Décès de Pascale Vandegeerde, la seule femme membre des Cellules communistes combattantes*,” [Death of Pascale Vandegeerde, the only female member of the Communist Fighting Cells] eds. Anne Poncelet, *rtbf.be*, 5 December 2022, available at: <https://www.rtf.be/article/deces-de-pascale-vandegeerde-la-seule-femme-membre-des-cellules-communistes-combattantes-11117425>.

⁵ Craig S. Smith, “Raised as Catholic in Belgium, She Died as a Muslim Bomber,” *The New York Times*, 6 December 2005, <https://www.nytimes.com/2005/12/06/world/europe/raised-as-catholic-in-belgium-she-died-as-a-muslim-bomber.html>; see also: Chris De Stoop, *La guerre sainte de Muriel: Le récit d’une kamikaze occidentale* (Brussels: Mols, 2013).

⁶ Thomas Renard, *The Evolution of Counter-Terrorism Since 9/11: Understanding the Paradigm Shift in Liberal Democracies* (London: Routledge, 2021).

⁷ Coline Remacle, Charlotte Vanneste and Sarah Van Praet, “*Approche ethnographique et jurisprudentielle des poursuites en matière de terrorisme en Belgique*,” [Ethnographic and jurisprudential approach to the prosecution of terrorism in Belgium] December 2022, National Institute of Criminalistics and Criminology, <https://www.belspo.be/belspo/brain-be/projects/FinalReports/AFFECT-RP51a-2022-INCC.pdf>; Thomas Renard and Rik Coolsaet, “From the Kingdom to the Caliphate and back: Returnees in Belgium,” in *Returnees: Who are they, why are they (not) coming back, and how should we deal with them?*, eds. Thomas Renard and Rik Coolsaet (Brussels: Egmont Institute), 19-40, https://www.egmontinstitute.be/app/uploads/2018/02/egmont.papers.101_online_v1-3.pdf.

⁸ CUTA Note, February 2021 [Restricted Diffusion].

⁹ Email exchange with a CUTA officer, 15 September 2023.

¹⁰ Interview with a Magistrate from the Federal Prosecutor’s Office, Brussels, 1 June 2023.

¹¹ Interview with a Magistrate from the Federal Prosecutor’s Office, Brussels, 1 June 2023.

¹² Articles 137, 138, 139, 140 and 141, Titre Ier, Belgian Criminal Code, available at: https://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=1867060801%2FF&caller=list&row_id=1&numero=2&rech=4&cn=1867060801&table_name=LOI&nm=1867060850&la=F&dt=CODE+PENAL&language=fr&fi=f&choix1=ET&choix2=ET&fromtab=loi_all&trier=promulgation&chercher=t&sql=dt+contains++%27CODE%27%26+%27PENAL%27and+actif+%3D+%27Y%27&tri=dd+AS+RANK+&imgcn.x=41&imgcn.y=12#LNK0037;

For a thorough analysis of the legal framework on terrorism in Belgium see: Ward Yperman and Jogchum Vrieling, “Report: Legal Framework,” *Reguide Project*, 2022, available at: <https://reguide.be/report-legal-framework/>; as well as Ann Fransen and Jan Kerkhofs, “*Het materieel terrorismestrafrecht*,” [Substantive criminal law on terrorism] in *Contra-Terrorisme: De gerechtelijke aanpak van terrorisme in België*, [Counter-Terrorism: The Judicial Approach to Terrorism in Belgium,] eds. Jan Kerkhofs, Antoon Schotsaert and Philippe Van Linthout (Brussels, Belgium: Larcier, 2018), 1-98.

¹³ Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JHA), *Official Journal of the European Union* L 164, 22/06/2002, p. 3-7. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32002F0475>.

¹⁴ Interview with a Magistrate from the Federal Prosecutor’s Office, Brussels, 1 June 2023.

¹⁵ Fransen and Kerkhofs, *Het materieel terrorismestrafrecht* [Substantive criminal law on terrorism], pp. 90-97.

¹⁶ Interview with a Magistrate from the Federal Prosecutor’s Office, Brussels, 1 June 2023.

¹⁷ Interview with a Magistrate from the Federal Prosecutor’s Office, Brussels, 1 June 2023.

¹⁸ Thomas Van Poecke, Frank Verbruggen and Ward Yperman, “Terrorist offences and international humanitarian law: The armed conflict exclusion clause,” *International Review of the Red Cross* No. 916-917 (February 2022), <https://international-review.icrc.org/articles/terrorist-offences-and-ihl-the-armed-conflict-exclusion-clause-916>. It is worth noting that a revision of article 141bis is under consideration, but it cannot apply retroactively and therefore will have no significant impact on the prosecution of the current wave of female VEOs.

¹⁹ Interview with a Magistrate from the Federal Prosecutor’s Office, Brussels, 1 June 2023.

- ²⁰ Interview with a Magistrate from the Federal Prosecutor's Office, Brussels, 1 June 2023.
- ²¹ Tam Hussein, "From Afghanistan to Syria: The Deadly Legacy of Belgium's Jihadists," *New Lines Magazine*, 10 October, 2022, available at: <https://newlinesmag.com/essays/from-afghanistan-to-syria-the-deadly-legacy-of-belgiums-jihadists/>.
- ²² Interview with a Magistrate from the Federal Prosecutor's Office, Brussels, 1 June 2023.
- ²³ Figures as of 1 July 2023, provided by the Federal Prosecutor's Office.
- ²⁴ Interview with a Magistrate from the Federal Prosecutor's Office, Brussels, 1 June 2023.
- ²⁵ Interview with a prison director, 8 June 2023.
- ²⁶ Interview with a prison director, 8 June 2023.
- ²⁷ Information from the Training Centre of the Penitentiary Administration, email, 28 July 2023.
- ²⁸ Figures shared by email by Celex, 22 May 2023.
- ²⁹ Interview with a member of Celex, online, 22 May 2023.
- ³⁰ Interview with a prison director, 8 June 2023; Interview with a member of Celex, online, 22 May 2023; Interview with a member of SPSC (Ex), Brussels, 1 June 2023.
- ³¹ Interview with a prison director, 8 June 2023; Interview with a member of Celex, online, 22 May 2023.
- ³² Interview with CAW officer, online, 22 August 2023.
- ³³ Interview with a member of SPSC(Ex), Brussels, 1 June 2023.
- ³⁴ Réka Varga and Thomas Renard, "*Disengagement, rehabilitation, and reintegration of foreign terrorist fighters: Country report - Belgium*," DRIVE on the Right Path (EU project), March 2022, p. 11. <https://drive-ontherightpath.eu/wp-content/uploads/2022/05/drive-report-belgium-final-23-05-22.pdf>.
- ³⁵ Interview with a prison director, 8 June 2023.
- ³⁶ Interview with a prison director, 8 June 2023.
- ³⁷ Interview with a member of Celex, online, 22 May 2023; Interview with CUTA, online, 6 June 2023.
- ³⁸ *Comité permanent de contrôle des services de renseignement et de sécurité, "Enquête de contrôle sur le suivi par les services de renseignement et de sécurité belges des détenus condamnés pour terrorisme et/ou identifiés comme radicalisés pendant et après leur détention,"* [Standing Committee for the Control of the Intelligence and Security Services, "Supervisory Inquiry into the Monitoring by the Belgian Intelligence and Security Services of Detainees Convicted of Terrorism and/or identified as radicalized during and after detention] 31 May 2022, https://www.comiteri.be/images/pdf/enquetes/TERRO_PRISON_UNCLASS_FR.pdf.
- ³⁹ Interview with a prison director, 8 June 2023; Interview with a member of Celex, online, 22 May 2023; Interview with a member of SPSC(Ex), Brussels, 1 June 2023.
- ⁴⁰ *Comité de vigilance en matière de lutte contre le terrorisme (Comité T)* [Vigilance Committee on the Fight against Terrorism], "*Évaluation des mesures visant à lutter contre le terrorisme à la lumière des droits humains*," [Evaluation of measures to combat terrorism in the light of human rights] *Rapport*, 2023, <https://www.liguedh.be/wp-content/uploads/2023/07/Rapport-Comite-T-2023.pdf>.
- ⁴¹ Interview with CUTA officer, online, 6 June 2023; Interview with a member of SPSC(Ex), Brussels, 1 June 2023.
- ⁴² *Comité T, Évaluation des mesures visant à lutter contre le terrorisme à la lumière des droits humains*, [Committee T, Evaluation of Counter-Terrorism Measures in the Light of Human Rights,] p. 110.
- ⁴³ Interview with a prison director, 8 June 2023.
- ⁴⁴ Astrid Boelaert and Nico Braspenning, "*Risicotaxatie met de focus op gewelddadig extremisme in penitentiaire context*," [Risk assessment with a focus on violent extremism in a penitentiary context] in *Contra-Terrorisme: De gerechtelijke aanpak van terrorisme in België*, [Counter-Terrorism: The Judicial Approach to Terrorism in Belgium] eds. Jan Kerkhofs, Antoon Schotsaert and Philippe Van Linthout (Belgium, Brussels: Larcier, 2022) 313-34.
- ⁴⁵ Figures shared by SPSC(Ex), email, 2 June 2023.
- ⁴⁶ Interview with a member of SPSC(Ex), Brussels, 1 June 2023.
- ⁴⁷ Interview with CUTA, online, 6 June 2023; Interview with a member of Celex, online, 22 May 2023; Interview with a member of SPSC(Ex), Brussels, 1 June 2023.
- ⁴⁸ Interview with CUTA, online, 6 June 2023; Interview with a member of SPSC(Ex), Brussels, 1 June 2023.
- ⁴⁹ Interview with a member of SPSC(Ex), Brussels, 1 June 2023.
- ⁵⁰ Interview with CAW officer, online, 22 August 2023.
- ⁵¹ Interview with two CAPREV officers, online, 31 May 2023.
- ⁵² Juge d'Application des Peines, or Tribunal d'Application des Peines.
- ⁵³ Coline Remacle, Isabelle Detry, Benjamin Mine, and Patrick Jeuniaux, "*Les parcours socio-judiciaires des returnees en Belgique: état des lieux des acteurs impliqués et des procédures mises en place*," [The socio-judicial trajectories of returnees in Belgium: an overview of the actors involved and the procedures put in place],

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- ⁵⁴ Remacle et al., “*Les parcours socio-judiciaires des returnees en Belgique*”.
- ⁵⁵ Interview with a prison director, 8 June 2023.
- ⁵⁶ Email exchange with SPSC(Ex), 11 September 2023.
- ⁵⁷ Varga and Renard, “Disengagement, rehabilitation, and reintegration of foreign terrorist fighters: Country report - Belgium,” pp. 14-15.
- ⁵⁸ Remacle et al., “*Les parcours socio-judiciaires des returnees en Belgique*”, pp. 32-33; email exchange with CAPREV officers, 12 September 2023.
- ⁵⁹ Interview with two CAPREV officers, online, 31 May 2023.
- ⁶⁰ Interview with CAW officer, online, 22 August 2023.
- ⁶¹ Figures shared by CAPREV, email, 12 June 2023.
- ⁶² Figures shared by CAW, email, 22 August 2023.
- ⁶³ Interview with CAW officer, online, 22 August 2023.
- ⁶⁴ Interview with CAW officer, online, 22 August 2023.
- ⁶⁵ Interview with two CAPREV officers, online, 31 May 2023; interview with CAW officer, online, 22 August 2023.
- ⁶⁶ Interview with two CAPREV officers, online, 31 May 2023; Interview with a prison director, 8 June 2023; Interview with CUTA, online, 6 June 2023.
- ⁶⁷ Varga and Renard, “Disengagement, rehabilitation, and reintegration of foreign terrorist fighters: Country report - Belgium,” pp. 18-19.
- ⁶⁸ See Renard, “The Evolution of Counter-Terrorism Since 9/11: Understanding the Paradigm Shift in Liberal Democracies”.
- ⁶⁹ Interview with a Magistrate from the Federal Prosecutor’s Office, Brussels, 1 June 2023.
- ⁷⁰ On the definitions and distinctions between terrorism recidivism and terrorism re-engagement, see Renard (2020).
- ⁷¹ Bruno Struys and Montasser Alde’emeh, “*Belgische vrouw aangehouden in Hongarije: Syrië-ganger was vrij onder voorwaarden*,” [Belgian woman arrested in Hungary: Syria fighter was released under conditions] *DeMorgen*, 11 January 2023, available at: <https://www.demorgen.be/snelnieuws/belgische-vrouw-aangehouden-in-hongarije-syrie-ganger-was-vrij-onder-voorwaarden~bf299d53/>.
- ⁷² Interview with a Magistrate from the Federal Prosecutor’s Office, Brussels, 1 June 2023; Interview with CUTA, online, 6 June 2023.
- ⁷³ Interview with CUTA, online, 6 June 2023.
- ⁷⁴ CUTA Note, February 2021 [Restricted Diffusion].
- ⁷⁵ Interview with CAW officer, online, 22 August 2023.
- ⁷⁶ Interview with two CAPREV officers, online, 31 May 2023.
- ⁷⁷ Rik Coolsaet and Thomas Renard, “The Homecoming of Foreign Fighters in the Netherlands, Germany and Belgium: Policies and Challenges,” *International Centre for Counter-Terrorism*, 11 April 2018, available at: <https://www.icct.nl/index.php/publication/homecoming-foreign-fighters-netherlands-germany-and-belgium-policies-and-challenges>.

3

The French Approach to Female Violent Extremist Offenders

Marc Hecker

Introduction

France holds a specific position in Western countries with regards to violent extremist offenders (VEOs). On the one hand, it represents the largest contingent in absolute terms of individuals who travelled to Syria and Iraq. The often-mentioned figure of 1,910¹ men and women probably includes *les velléitaires*, that is to say, those who wanted to travel to Syria and Iraq but were prevented from doing so, either at home or abroad. A more accurate assessment oscillates between 1,400 and 1,500.² One official said, under the condition of anonymity, that the intelligence community considers that 1,482 French citizens or residents effectively managed to reach Syria and Iraq, including more than 500 women.³

On the other hand, France is the first (and so far only) country where a women-only cell of ISIS-related women attempted (and failed) to perpetrate a major terrorist attack. This was the September 2016 Notre-Dame plot, where a group of women tried to detonate a car in front of a café close to the Paris cathedral. Several other plots were foiled by the police.ⁱ

In January 2017, an internal publication from the Ministry of Interior highlighted that the proportion of women among the French contingent in Syria and Iraq had significantly increased. At the time, 288 of the 685 French people were women (42 percent).⁴ This growing trend was explained by two factors: the “massive arrival” of women in 2014/2015, and the high level of attrition among male fighters. In 2017, the number of new arrivals from France in Syria and Iraq dropped, mainly for two reasons. First, since the Islamic State in Iraq and Syria (ISIS) was at battle and losing territory, moving to the so-called caliphate became less attractive. Second, the countermeasures adopted by the French and Turkish authorities made it much more complicated to reach ISIS’s territories.

In February 2018, the Inter-Agency Committee for the Prevention of Delinquency and Radicalisation (Comité interministériel pour la prévention de la délinquance et de la radicalisation) published the French strategy to prevent radicalisation⁵, the appendix of which contained statistics of note. At the time, 323 French nationals or residents had returned: 56.7 percent (183) of them were men, 22.3 percent (72) women, and 21 percent (68) minors. The

ⁱ A sample of 94 cases of women sentenced on terrorism charges was used for this report. Among them, 20 were related to terrorist plots.

returnees had come back through two different channels: some had managed to return on their own, sometimes undetected by the authorities; others had been expelled from Turkey.

After the collapse of the caliphate, hundreds of French women and children had to live in camps managed by the Kurds in Northeast Syria. With regards to repatriation, France opted for a case-by-case approach, but never made the selection criteria public, a move criticised by the lawyers of families of French jihadists.⁶ In September 2022, after a lengthy legal proceeding, the country was even condemned by the European Court of Human Rights (ECtHR) for not having justified its refusal to repatriate two women and their children.⁷ However, the ECtHR did not explicitly request that France repatriate its citizens.

In practice, France only repatriated 35 particularly vulnerable children between March 2019 and January 2021,⁸ followed by an eighteen month-period without any repatriations at all. This situation was denounced by human rights advocates⁹ and France was blamed by international bodies, notably the United Nations' Child Rights Committee.¹⁰ More and more politicians¹¹ – including former Prime Minister Bernard Cazeneuve¹² – and well-known anti-terrorism figures like prosecutor François Molins,¹³ publicly asked for the repatriation of all children.

The arguments raised by proponents of the repatriation of children and women were usually legal, moral, and linked to security considerations, given the risks of further radicalisation in Syria or the possibility of escaping. The latter was nonetheless nuanced by officials in the security field.¹⁴ Part of the security apparatus indeed considered that it would have been safer to keep adults in Syria or Iraq rather than to repatriate them. Three arguments were often cited: the number of French nationals involved in jihadi activities – much higher than that in other European countries; the level of radicalisation of certain French nationals (including women) who were still in Syria and Iraq; and the overcrowding of prisons in France, where jihadi inmates were already numerous.

France's position finally changed after Emmanuel Macron's re-election in April 2022. The case-by-case approach was progressively abandoned and replaced by successive waves of repatriation. In July 2022, sixteen women and 35 minors were repatriated. In October 2022, fifteen women and 40 children. In January 2023, fifteen women and 32 children. In July 2023, ten women and 25 children. After this fourth wave of repatriation, the total number of returnees in France amounted to around 670: roughly 360 adults (approximately 200 men and 160 women) and more than 310 minors.¹⁵ The exact number of French nationals still present in Syria and Iraq is unknown. After the third wave of repatriation, one lawyer estimated that there were still approximately 50 women and 100 children remaining.¹⁶ After the fourth wave, an anti-terrorism expert evaluated that 67 men, 35 to 40 women, and 55 to 75 minors were still being held by Kurdish forces.¹⁷ However, an official speaking under the condition of anonymity had higher assessments on the number of French jihadists in Syria: up to 300. This source specified that two categories should not be excluded: men – who are often left out of the public debate on returnees – and French nationals outside of the Kurdish zones, for instance, in the region of Idlib with a group called *Firqatul Ghuraba* headed by Omar Omsen. A note written by two French intelligence agencies and quoted by *Le Monde* mentions that 115 French adults and 105 minors were still present in the Idlib pocket in October 2023.¹⁸

This chapter follows the same structure as the other country chapters: it focuses on the judicial process, the prison system, and rehabilitation programmes. In addition to secondary sources, four primary sources were used in this paper: 1) the prosecutor's office specialised in terrorism (PNAT) provided the court decisions for all the women sentenced on terrorism charges who

were serving their sentences in January 2023. At the time, it represented a total of 94 casesⁱⁱ, including 20 female VEOs sentenced by juvenile courts.ⁱⁱⁱ In this sample, 24 cases involved women who travelled to a conflict zone and in 22 cases a woman tried to join a jihadist group abroad but failed (among these 22, eight were prevented from leaving France and fourteen were arrested abroad, mostly in Turkey); 2) 30 interviews were conducted, including with six female returnees; 3) some of the interviewees provided internal documents; 4) a visit was made at the Rennes jail, where a specific programme for female terrorist inmates is held.

The Prosecution of French Female VEOs

In July 1996, after a wave of attacks linked to the spillover of the Algerian civil war, French lawmakers adopted a new legislation, aimed at reinforcing the legal means to anticipate and pre-empt terrorist attacks. With the new incrimination of association with terrorist wrongdoers, (AMT) “conspiracy to commit to terrorism” became an offence itself.¹⁹

Former anti-terrorism judge David Bénichou explains that the objective of the AMT is to “preventively neutralise the candidates-perpetrators of terrorist attacks.” He adds: “What would be the point in having legislation that only punish the perpetrators of an effective terrorist attack? To count the fatalities? To provide a lawyer and a platform to terrorists? It is also the main challenge: to act before the actual attack, meaning that the proof will be weaker, less obvious, and you must remain within the framework of the rule of law.”²⁰

The AMT regime has been reinforced over the years. In March 2004, lawmakers added the possibility to criminalise the leadership of a terrorist group. In other words, leading a terrorist group became a distinct and more serious offence (*un crime*) than simply being a participant, considered as a less serious offence (*un délit*). In January 2006, the possibility to “criminalise” was extended to the participation in a terrorist organisation. Therefore, two kinds of AMT exist: AMT Correctional (AMT correctionnelle) for the less serious cases and AMT Criminal (AMT criminelle) for the more serious ones. The trials on AMT Correctional charges take place at the sixteenth Chamber of the Paris Court. Those on AMT Criminal charges are examined by a specialised jurisdiction called the Specially composed Assize Court (Cour d’assises spécialement composée). Contrary to a classic Assize Court (*Cour d’assises*), the decision is not made by a jury but by professional judges. Until January 2017, the number of judges was seven per trial convening together in the first instance and nine in appeal.²¹ Given the large number of cases, lawmakers decided to reduce these numbers to five and seven.

In December 2012, after the Mohamed Merah attacks, lawmakers included in the penal code the ability to prosecute French citizens involved in an AMT abroad. This legal tool was added to the legislation because at the time, Mohamed Merah was presented as someone who had acted alone on French soil (thus without the association of terrorist wrongdoers), but who had received training in Afghanistan. In June and July 2016, new laws increased the maximum sentence on AMT charges: up to 30 years imprisonment (instead of 20) for participation in

ⁱⁱ The dataset is composed of 94 cases involving 91 individuals. For personal data, such as citizenship, the sample referred to the number of individuals. For case-related aspects such as types and length of sentences, types of charges in the indictment and convictions, the sample referred to the number of cases.

ⁱⁱⁱ The average age in the sample is 24 years old at the beginning of the offence or crime. The youngest was 13, while the oldest was 58.

AMT Criminal and up to lifetime imprisonment (instead of 30) for the leadership of a terrorist organisation.

Hence, when the Syrian conflict began, France already had a strong legal framework to confront the situation. The first returnee convicted by a French court had spent ten days in Syria in 2012. Two years later, he received a 7-year prison sentence on AMT Correctional charges. Since then, the AMT has been the legal tool used in almost all cases related to FTFs. There are, however, several nuances or exceptions that will be explained later.

The penal policy has evolved over time. After the 2015 wave of terrorist attacks, the criminal and terrorist nature of jihadist groups – especially ISIS – became evident. In 2016, prosecutor François Molins explained:

Until now, the criminal qualification was used in cases of exactions. For instance, it was applied to individuals seen on video executing someone or holding a severed head. For the others – the fighters, the candidates [for jihad], women and those providing logistical support –, it was AMT Correctional. The maximum sentence was 10 years. [...] Given the radical evolution fostered by repeated calls for murder and terrorist attacks since January 2015, we needed to think differently. We now consider all the cases of those who left for Syria or Iraq after January 2015 and who participated in combats, patrols, Islamic police with ISIS or the al-Nusra Front as AMT Criminal.²²

This criminalisation policy actually means that the initial incrimination, at the beginning of the judicial investigation, is AMT Criminal.²³ However, at the end, the judges can decide to use the AMT Correctional if they think that the infraction is not serious enough or that the proof is not compelling enough to justify keeping the criminal incrimination. Pragmatically, if they believe that the case will not lead to a sentence of more than ten years, they can switch from AMT Criminal to AMT Correctional, in order to avoid a trial in front of a Specially composed Assize Court that would require more resources.

With regards to women who travelled to Syria, David Bénichou explained in 2015 that anti-terrorism magistrates had two different interpretations of the first waves of female returnees:²⁴ some of them had a “restrictive viewpoint” of AMT and only considered the fighters as those who had to be convicted. From this view, it would be illegitimate to prosecute women. What’s more, “jihadi wives”^{iv} are deemed as “a kind of attribute” to their husbands and cannot be held responsible for the terrorist intent of their male guardians. Other magistrates had an “extensive viewpoint” of AMT and viewed women as part of the logistics of the terrorist organisation. According to that interpretation, the simple act of cooking for a jihadi husband becomes a form of logistical support: a fighter cannot fight if he is not properly fed.

The September 2016 Notre-Dame plot contributed to a change in the public perception of the role of women in jihadism.²⁵ However, the judicial perception had already started to evolve before this event. Right before the Notre-Dame plot, there were already 59 female jihadists indicted in France on terrorism charges, eighteen of whom were in prison. At that time,

^{iv} Interestingly, the vocabulary has evolved in France over the past years. In 2015, the expression “femmes de djihadistes” (jihadi wives) was more common than “femmes djihadistes” (female jihadists). This evolution can even be seen in book titles. See for instance: Matthieu Suc, *Femmes de djihadistes*, (Paris: Fayard, 2016); Fethi Benslama and Farhad Khosrokhavar, *Le jihadisme des femmes. Pourquoi ont-elles choisi Daech?* (Paris: Seuil, 2017); Edith Bouvier and Céline Martelet, *Un parfum de djihad. Qui sont ces françaises qui ont rejoint une organisation terroriste?* (Paris: Plon, 2018).

prosecutor François Molins publicly said: “More and more women are detained. At the beginning, we had perhaps too many scruples: we thought that women simply followed their husbands and were only doing domestic chores in Syria. Now, they are systematically arrested and put into custody when they return.”²⁶

What is more the jurisprudence had validated the extensive viewpoint of AMT before the Notre-Dame plot. In July 2016, the Court of Cassation issued a ruling asserting that the simple act of joining a terrorist organisation constituted an AMT offence. This Court underlined that the association of wrongdoers is considered as an independent infraction from the crimes perpetrated by its members.²⁷ In other words, men and women can be considered terrorists even if they are not directly involved in violent acts. In practice, in cases related to Syrian networks, there are not many legal challenges to sentencing someone on AMT: proving that this person intended to travel to Syria to join a jihadist group is sufficient. Usually, the women who went to Syria do not deny that they did so. However, they often state that they had no intention of perpetrating a terrorist attack and therefore do not understand why they are prosecuted as terrorists. After the ruling of the Court of Cassation, this line of defence became irrelevant.

From the sample of 94 cases mentioned previously, seventeen were convicted on AMT Criminal charges and 65 on AMT Correctional. The more serious a case is (in terms of the level of involvement in violence), the higher the chances are that a woman will be prosecuted on AMT Criminal charges and will receive a lofty sentence. For instance, there was no doubt that the Notre-Dame plot would be considered AMT Criminal and examined by a Specially composed Assize Court. During the trial, it was proven that the accused wanted to kill as many people as possible. In the appeal, the four women received imprisonment sentences that varied between 20 and 30 years.

Not all the terrorist plots, though, are considered AMT Criminal. For example, a woman who plotted a mass-shooting in Brittany was convicted on AMT Correctional charges and received an eight-year imprisonment sentence. In this case, the project was not as advanced as in the Notre-Dame plot: the would-be perpetrator had done some scouting in the streets where she planned to perpetrate the attack, she had written on Telegram that her action was imminent, but she did not manage to buy any weapons. Other cases of plotting that are considered AMT Correctional involve minors. Their young age is considered as a mitigating factor and their sentences are usually much lower: in the sample, most of the minors received a suspended sentence and for those who received an effective prison sentence, the average length was below three years.

When we focus on female returnees, when there is not much detail about what the women did in Syria or Iraq, the cases are often considered AMT Correctional and the sentence is around 6-year imprisonment. The sentences will perhaps be higher for the most recent returnees who stayed until the collapse of ISIS’s territory and were repatriated in 2022/2023: as prosecutors explain, the infraction committed by these women was indeed “long and continuous.”²⁸ What’s more, the time spent in the Kurdish camps may not necessarily be considered as a mitigating factor: indeed the camps are often described as a radical environment that constitutes “a continuity of ISIS.”²⁹

When there is more information and evidence about a criminal offence, the AMT Criminal will then be used. If we consider the three heaviest sentences given to female returnees in the sample, the one who received the longest sentence (seventeen year imprisonment) was Kelly G. Not only did she travel to Syria, but the magistrates also thought that she was involved in a plot in France. Indeed, she was apparently authorised by ISIS to leave Syria on the condition

that she would perpetrate an attack against the Jewish community. Furthermore, she recruited several women on behalf of ISIS, including one who died only a month after her arrival in Syria. The second heaviest sentence (fourteen-year imprisonment) was given to Jihane M. who went to Syria with her new partner. She had two children and he had one daughter. After his death, she managed to come back to France but left his daughter in Syria. The third heaviest sentence (twelve years) was given to a woman who travelled to Syria three times, who married two ISIS fighters and who was an active member of the “religious/morality police” (*hisbah*).

The other charges used in the sample of 94 cases were:

- Terrorism incitement: The 13 November 2014 law aggravated the maximum sentence for online terrorism incitement (seven-year sentence).
- Terrorism funding: Article 421-2-2 of the French penal code states that funding a terrorist enterprise constitutes an act of terrorism. The maximum sentence is ten years and a €225,000 fine. Two women in the sample were indicted for terrorism funding and fraud in social benefit programs, as they continued to receive social benefits from their sister who had left France for Syria.
- Non-denunciation of a terrorist crime: The maximum sentence is five years and a €75,000 fine (article 434-2 of the French penal code). In the sample, only one woman was convicted for non-denunciation of a terrorist crime: she was aware of the Notre-Dame plot but did not call the police. She received a three-year imprisonment sentence, fully suspended with several probation measures.
- Frequenting of terrorist websites: In one case, this incrimination was at some point envisaged by the magistrate. It was eventually dropped because the legal disposition was censored by the Constitutional Council (*Conseil constitutionnel*)³⁰
- Individual terrorist enterprise: This incrimination was created on 13 November 2014 to try to prevent terrorist attacks by lone actors. This offence did not end up being used in the sample – though one prosecutor said it was considered in one case, the magistrate opted for an AMT since there was enough evidence that the would-be perpetrator had contacts with other individuals.
- Child neglect: This incrimination was only used for women who had taken their children to Syria or Iraq, not for those who had given birth there. Moreover, the incrimination was not used systematically, and was always associated to an AMT. Magistrates explained that they progressively decided to add the child neglect offence because it allowed for the children to be considered victims and therefore to be represented in the trials.³¹
- Core international crimes: These charges were not used in the sample, but in two cases that have yet to be judged, two women were indicted for core international crimes.³² When asked why these charges were less commonly used in France than in other countries, magistrates mentioned two main reasons: on the one hand, it is much more complicated to convict someone on war crimes or genocide charges than on AMT. On the other hand, core international crimes cases are judged by juries and not by professional judges, which convolutes things (in terms of the sensitivity and complexity of the cases, security, etc.).

In many trials, the judges also decide to impose various probation measures. These measures can relate to geography (designation of places where the convict cannot go, obligation to declare where the convict lives; obligation to warn probation officers if the residence changes; requirement to get the approval of the sentencing judge before travelling abroad), social life

(ban from meeting certain people; obligation to find a job or pursue vocational training), or care (medical or psychological treatment; participation in a disengagement programme).

In the sample, 50 women had to spend time in pre-trial detention. Fifty-six female defendants received an effective prison sentence. Among the 23 who travelled to a conflict zone (eighteen returnees, and five tried and sentenced in absentia),^v only two were granted the possibility to execute their sentence at home with an electronic surveillance device. It is therefore crucial to study how female jihadis are handled in prison.

French Female VEOs and Returnees in Prison

The French prison administration designates the jihadi inmates sentenced on terrorism charges by the acronym TIS. Another name – RAD (previously DCSR) – is given to inmates identified as radicalised but who were not condemned on terrorism charges. There are hundreds of male RAD inmates in prison, but very few female RAD inmates (a dozen). This is congruent with the fact that in the sample, 80 percent (57 out of 71 for whom data was available)^{vi} of women had no criminal record prior to their sentencing. In other words, while the crime-terror nexus seems to be a real issue for men, it does not seem to be the case for women.³³ One explanation given by a member of the prison administration is that jihadist groups stress the importance for women to behave modestly and honourably, to be pious wives and mothers.³⁴ Hence, these groups would not be really interested in recruiting female criminals. Another explanation is that women are generally less involved in criminality than men: they represent 52 percent of the French population, but only eighteen percent of the police and gendarmerie suspects.³⁵ The most striking fact regarding female TIS is their growing number and proportion, as shown in the graph below.

The peak of the TIS population was reached in March 2020 with 540 inmates.³⁶ Since then, dozens of inmates have been released each year, while fewer men have been incarcerated. The tendency for women is the opposite, with more and more women being sent to prison. This situation is due to two factors: 1) the decrease of terrorist plots on French soil leads to fewer incarcerations; and 2) the French government's decision to change its repatriation policy has led to an increase of female TIS, knowing that almost all the women repatriated since 2022 have been placed in pre-trial detention. The few exceptions concern women who suffer from serious war injuries or critical health problems. Thus far, the new repatriation policy does not apply to adult men who are still in Syria or Iraq.

The capacity of the prison system was considered when deciding the frequency at which female jihadis are being repatriated. A senior official of the prison administration said that before the first wave of repatriation in July 2022, this administration had advocated for a repatriation pace that should not exceed 15 women every two months.³⁷ This recommendation was almost respected by the authorities, as the different waves of repatriation took place in July 2022,

^v The five women sentenced in absentia were part of separate cases involving other convicts who were present in court. These five women received the maximum sentence for AMT correctionnelle, i.e., 10 years imprisonment.

^{vi} Among the 14 persons who had a criminal record, only three had been sentenced for a (non-violent) terrorism related offence (one for disseminating propaganda and two for violating an administrative measure that prohibited them from leaving France). The others had been sentenced for relatively minor offences, like driving offences, robbery, or drug use.

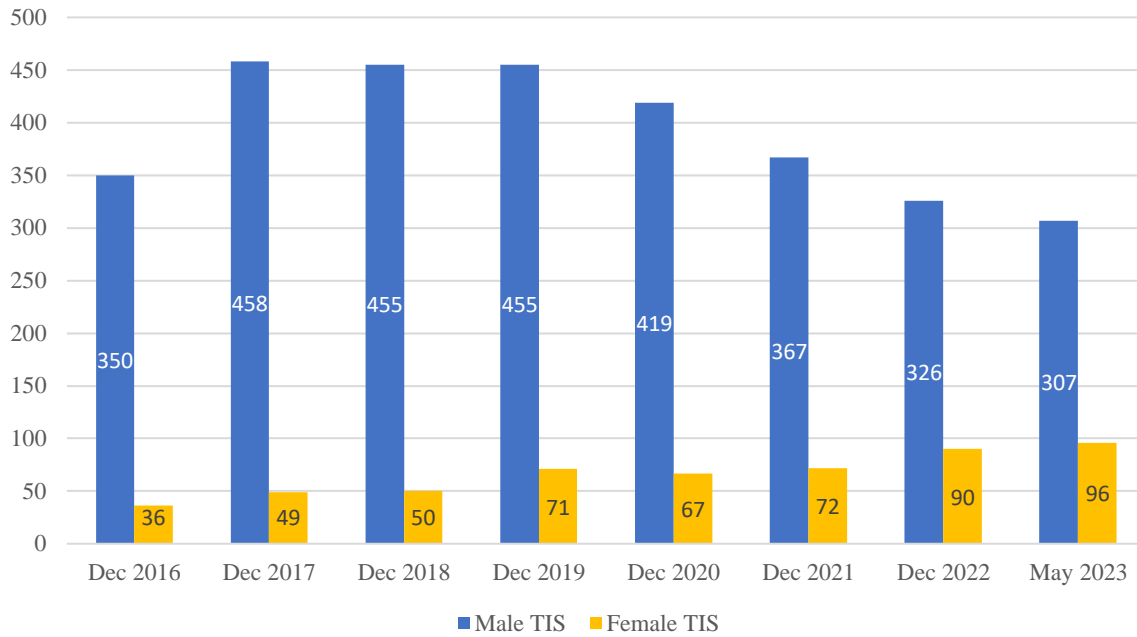


Figure 3.1: Evolution of jihadist inmates (TIS) in French prison (data provided by the French Prison Administration; as of May 2023)

October 2022, January 2023, and July 2023. Only once, in the first wave, the ceiling was slightly exceeded with the repatriation of sixteen women.

Nonetheless, such an influx puts the prison system under pressure. Women represent 3.6 percent of the total population of inmates, which means that there are approximately 2,600 female inmates among a total population of around 73,000 prisoners. In February 2023, female TIS amounted to almost 4 percent of female inmates, while male TIS amounted to less than 0.5 percent of male inmates. Furthermore, for security reasons, only a limited proportion (less than one third) of prisons that have dedicated areas for women are vetted to host TIS, which reinforces the concentration effect.

The way female TIS are handled is based on the system created for men. Prior to 2015, TIS typically lived amongst other inmates (dispersion policy). But with the rise of incarcerated terrorists linked to Syrian networks, the situation became precarious. The risk that terrorists may influence other criminals had already been identified years before, yet it suddenly augmented.³⁸ Therefore, in October 2014, an experiment was launched in the Fresnes prison. Around twenty inmates were gathered in a specific area called Proselytism Prevention Unit (U2P). In January 2015, the Prime Minister announced his plan to create several units of that type. These units – called dedicated units (UD) and then radicalisation prevention units (UPRA) – started to operate between January and March 2016.³⁹

In September 2016, a terrorist attack took place in the UPRA of the Osny prison: an inmate tried to assassinate two guards with a self-made weapon.⁴⁰ Prior to the attack, this inmate was considered quite positively by the prison staff: he seemed to be interested in the activities and looked rather open to different thinking. His case raised an issue that is still present in the staff's mind today: false compliance or *taqiyya*, or the ability to dissimulate beliefs. In October 2016, the Minister of Justice Jean-Jacques Urvoas announced that the UPRAs would be replaced by six evaluations of radicalisation units (QER) to better assess the prisoners.⁴¹

In February 2018, the French government published its National Plan to Prevent Radicalisation (PNPR). One of the measures was the “design and implementation” of “specific detention areas for radicalised individuals to accommodate, after their assessment, radicalised and proselytising inmates.”⁴² The first two radicalisation processing areas (QPR) opened in 2018.

As early as 2016, the Minister of Justice Jean-Jacques Urvoas announced his intent to create a QER for women. However, this project did not materialise quickly. In June 2021, another Minister of Justice Eric Dupond-Moretti declared: “Out of 469 [TIS] inmates, 254 have already been condemned. Out of these 254, 163 will be released by 2024. Moreover, there are 635 DCSR [RAD]. [...] There are 121 places in QERs at the national level. These QERs are dispatched between three prisons: Fleury-Mérogis, Osny and Vendin-le-Vieil. A QER for women – which is new – will open by the end of 2021 in Fresnes.”⁴³ It finally opened in January 2022. Incidentally, it was inaugurated a couple of months after a prison break attempt by a female returnee who was in pre-trial detention in Fresnes: she managed to dig a hole in the wall and used a rope made of bed sheets to get out of her cell.⁴⁴ However, she did not manage to climb the main wall of the prison and was caught by guards.

In 2022, the director of the prison administration indicated that the QER for women had a capacity of eight people, while each of the six QERs for men had a capacity of twelve inmates.⁴⁵ The QER sessions last four months (including eight weeks of evaluation) and are done by multidisciplinary teams that involve prison staff, probation officers, pairs of support officers (social workers and psychologists)⁴⁶ and religious advisers (*médiateurs du fait religieux*). In 2019, a research report on Muslim chaplains explained that this new role of religious advisers was created because the chaplaincy was reluctant to cooperate in the fight against radicalisation, and because the prison administration wanted to “preserve the chaplains’ mission of spiritual support.”⁴⁷ There are female chaplains and female religious advisers, but they are not necessarily in charge of female inmates: in fact, several female inmates have a male adviser and several male inmates have a female adviser.⁴⁸ In QERs, the role of religious advisers is to assess the “ideological intensity” of the inmates. However, some prisoners consider them to be apostates and refuse to meet with them, which negatively impacts their evaluations.

Once the multidisciplinary evaluation is completed, the reports are transmitted to the central administration, and three outcomes are possible: the higher end of the spectrum (in terms of risks of proselytism and violence) is sent to isolation, the lower end is oriented towards ordinary detention, and in the middle – those who are deemed radical but likely to disengage – are sent to radicalisation processing areas (QPR). As of December 2023, 66 percent of men and 55 percent of women have been oriented towards ordinary detention, 22 percent of men and 33 percent of women towards QPR, and the remaining twelve percent of men and women towards isolation.

There are currently six QPR for men (Lille-Annoeullin, Condé-sur-Sarthe, Paris - La Santé, Aix-Luynes, Nancy and Bourg-en-Bresse) with a capacity of 189 individuals. The first QPR for women opened in Rennes in September 2021. Its capacity gradually grew to reach sixteen individual cells. In 2023, the QPR in Rennes is being extended to an expected capacity of 29 cells (plus two in the nursery – for female inmates with their babies).⁴⁹ Additionally, a second QPR for women is planned to open in early 2024 in Roanne, 90 kilometres from Lyon.

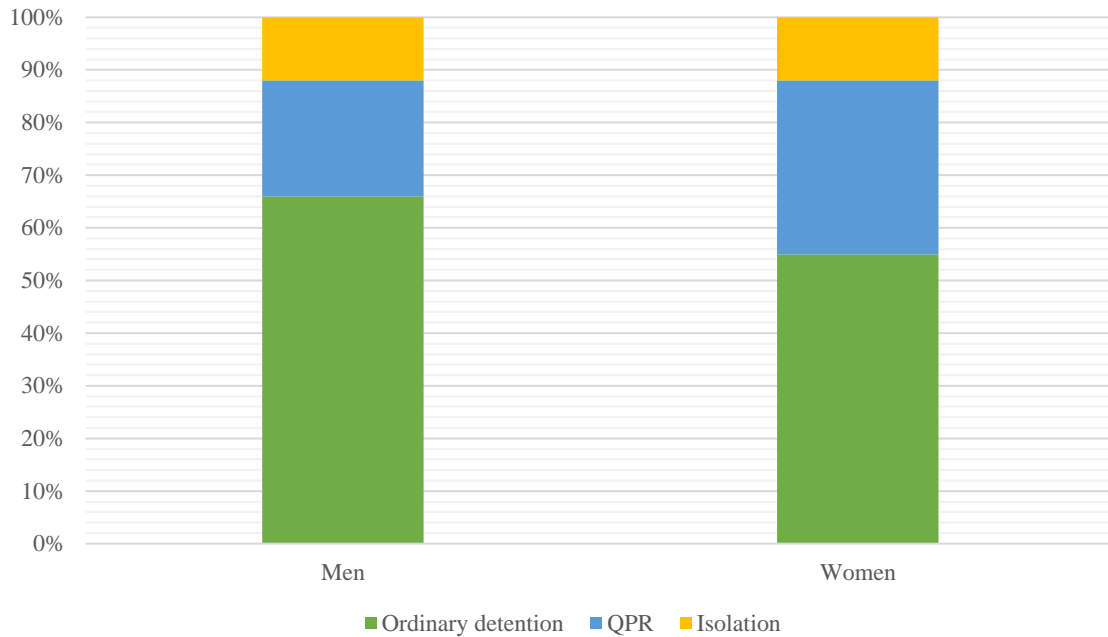


Figure 3.2: Orientation of French terrorist inmates after their evaluation for radicalisation in QER (data provided by the French Prison Administration, as of December 2023)

The decision to change the repatriation policy was taken after the openings of the first QER and QPR for women. However, the successive waves of returnees that began in July 2022 forced the prison administration to adapt, as it would have been impossible to evaluate all the returnees in the only QER for women. Thus, an ambulatory system was put into place: psychologists, social workers, and religious advisors (two men and two women) based in the Paris-region were asked to evaluate inmates in three different prisons (Fresnes, Fleury-Mérogis and Réau).⁵⁰ These mobile evaluations are shorter than the usual practice in QER, lasting five weeks, instead of eight. The different professionals can meet each woman two or three times for lengthy interviews (up to three hours). The first interview typically takes place less than a week after the repatriation.

Prison administration professionals who took part in the ambulatory evaluations (sometimes referred to as flash evaluations) said that the narrative of the recent returnees is often stereotyped. Several women explained that they had only gone to follow their husbands, and when the evaluators pushed them to delve deeper, they either did not say much or appeared to have war trauma (“On a du lisse ou du trauma”).⁵¹ The professionals also acknowledged that the conditions of evaluation were degraded (compared to a QER session) but said that more complete evaluations may take place later.

Other professionals in the QPR in Rennes explained that for recent returnees, the QPR plays a dual role: an in-depth evaluation (to complement the ambulatory one), and the beginning of a rehabilitation process. One female returnee claimed that what had been written about her after the ambulatory evaluation was defamatory.⁵² She said that some of her declarations had been misunderstood. She was reassured when she realised that the team at the QPR allowed her to explain why she thought that the first evaluation was biased. The professionals at the QPR relayed to me that in this specific case, they contacted the professionals who had conducted the first evaluation to better understand what had happened.

Another returnee – who already considered herself deradicalised – was surprised to be oriented to the QPR, since she had expected to be sent to ordinary detention. After five months, the team of the QPR met for a multidisciplinary commission (CPU).⁵³ They confirmed that this inmate was probably disengaged. They cautiously ruled-out the hypothesis of false-compliance, arguing that this person had acted consistently with the different professionals and in various situations. The QPR team advised that at the end of the first six-month period, this woman be reoriented towards ordinary detention. They did not use a specific risk-assessment tool (such as VERA-2R or ERG 22+) to reach this conclusion. The prison administration has its own analytical grids (the same for men and women) that help homogenise observations made by professionals. A religious advisor added a general note of caution: some women appear to be “emotionally disengaged,” in the sense that the horrors they went through made them pull away from jihadism.⁵⁴ However, he added that it is crucial to solidify this emotional evolution with an “intellectual disengagement,” so that the women can understand and counter the arguments used by jihadist ideologues.

In practice, activities at the QPR are varied: inmates have face-to-face interviews with professionals, but they also take part in collective activities (with a maximum of five inmates per activity), such as: conferences, debates, sporting activities, board games, cooking, oriental dance, etc. These activities may have a recreational aspect and are occasionally criticised,⁵⁵ but they also allow for different dynamics to bloom with the staff and to observe these inmates’ behaviour in different settings.

The QPR is separated from the rest of the prison and the detention regime is stricter. For instance, after each parlour, inmates have to strip down for a visual body search. Another example is the fact that the inmates can only access the courtyard for one hour in the morning and one hour in the afternoon, with a maximum of five inmates at the same time. The guards chose to work in the QPR and have been specially trained. Several inmates highlighted that their relations with the guards were smoother than in other prisons, and the guards insisted on the fact that incidents were rare.

According to professionals who have worked both with female and male terrorist inmates, one of the most striking differences related to gender is the fact that women speak much more about their children than men. One psychologist explained that it was even problematic: some female returnees “put up a wall,” in that this topic prevented them from talking about anything else.⁵⁶ This psychologist also said that the separation from their children allowed certain women to see themselves as victims. They insist, for instance, on the cruelty of the separation from the children at the airport. Most of them understand that they have to be punished for what they have done, but they question the effect of separation on their children. Furthermore, certain children have trouble in their foster homes – one of them was for instance assaulted by other children. It takes a long enquiry (rarely less than six months) before grandparents, aunts, or uncles are entrusted with the care of returnees’ children.

The authorities are aware that the question of these children is of the utmost importance and are trying to improve the situation. Almost all the professionals who were interviewed for this project acknowledged that it was crucial to maintain the links between the children and their mothers. One exception was a psychologist who said that when a mother is toxic for her children, it is legitimate to envisage their separation.⁵⁷ Within the prison administration, at the central level, a professional oversees the relations between the administration and the services in charge of childcare. At the time of the interview (May 2023), 301 child returnees were supervised by these services, including 139 born in Syria or Iraq. This professional explained,

for instance, how the location of the children is taken into account when deciding which prison the mother is sent to.

Of course, there are numerous constraints. For instance, as there is only one QPR in Rennes, the inmates may be far away from their children. At the local level, the prison administration decided to include a social worker in the QPR's staff, whose job it is to facilitate the relationships between mothers and their children. The nature of their interactions is decided by judges, and usually, inmates are quickly allowed to write letters and have occasional phone calls with their children. The letters are read by the administration and the phone calls are mediated, which is to say that a professional stays with the children during the conversation. After a few months, videoconferences and physical visits are typically allowed, though they are also mediated. The frequency of videoconferences is approximately once every two weeks. The recurrence of physical visits depends on the distance and the availability of the professionals who take care of the children. Some children can only visit their mother once every few months. The inmates have access to dedicated places that resemble small apartments (UVF) where they can stay for a few hours with their children. In theory, the stay in an UVF can last up to three days, but in practice, it generally lasts four hours.

Several returnees in the QPR in Rennes perceive the French judicial system as harsher than those of other European countries and know that they will spend years in prison.⁵⁸ They therefore hope that they will rapidly be sent to a prison close to the residence of their children in order to be able to see them frequently. They also hope – even if it is unlikely, as the possibilities of early release for terrorist inmates have been drastically reduced⁵⁹ – that after a few years, they will have the possibility to execute the rest of their sentence at home with an electronic surveillance device. While recent returnees will indeed spend years in prison, many other TIS female inmates have already been released.

French Female VEOs after Prison

As explained in the previous section, one of the main purposes of the QPRs is to begin a disengagement process in jail. However, only a minority of TIS are incarcerated in such units, and they are not supposed to stay in QPRs for long periods of time. Hence, at any given moment, the majority of TIS in jail can access educative curriculums or professional training, like any other prisoner, but in practice, it is not that easy. This type of curriculum indeed suffers from the overcrowding of French prisons, the lack of teachers and other logistical problems.⁶⁰

Specific programs focused on radicalisation are also available in ordinary detention. They are called Violent Radicalisation Prevention Programmes (PPRV). Prevention of recidivism and disengagement are part of their official objectives.⁶¹ They do not fundamentally differ from activities organised in QPRs (workshops on citizenship, identity, conspiracy theories, media literacy, geopolitics, etc.), but the groups are bigger, and the pace is less intensive. TIS inmates in ordinary detention can also meet support officers (social workers and psychologists) and religious advisors, available to TIS under judicial control, or under probation in open custody as well.

As early as 2016, the French government realised that a thorough programme was needed in open custody. Two elements contributed to this awareness, the first being the growing number of TIS and RAD outside of prison. In the Summer of 2016, there were 70 TIS and 282 RAD in open custody. The second one was the attack in a church in Saint-Etienne-du-Rouvray, where

a priest was beheaded in July 2016. One of the perpetrators was under pretrial judicial control and was wearing an electronic surveillance bracelet.

Hence, the Ministry of Justice launched a call for tender for an experimental programme in order to avoid attacks by individuals under pre-trial judicial control and prevent recidivism by former detainees. This call for tender was won by a non-governmental organisation called Association for Applied Criminal Policy and Social Reintegration (APCARS). The programme run by APCARS was called Research and Intervention on Violent Extremism (RIVE) and existed from October 2016 to September 2018. Twenty-two people took part in the programme, including ten women, where thirteen participants were awaiting their trial, while nine had already been condemned. This mentoring programme was based in Paris and was divided in three pillars: social, psychological, and ideological. The multidisciplinary team was supposed to provide mentoring to each participant for six hours per week. The professionals were trained to use specific risk assessment tools such as VERA-2R and LS-CMI, but RIVE's scientific advisor found that these tools were not used properly.⁶²

A new anti-terrorist law was adopted by French members of Parliament on 3 June 2016. One of its measures was the possibility to obligate someone “to comply with the conditions of a healthcare, social, educational, or psychological program designed to teach civic values and help the individual reintegrate into society”.⁶³ Hence, RIVE was compulsory for its participants. If someone did not comply, a judge could decide to send the individual to prison.

Between mid-2016 and early 2018, the number of TIS and RAD in open custody almost doubled, and this tendency continued to grow. Therefore, the authorities decided to develop and strengthen disengagement programmes. The APCARS contract had a two-year duration. The ministry of Justice issued a new call for tender with further specifications such as the possibility of housing participants. The idea was also to extend the programme geographically to add three cities: Marseille, Lyon, and Lille. The tender was won by Groupe SOS, a major social enterprise with 18,000 employees working in 550 institutions, associated with a small NGO called Artemis (formerly Unismed) that specialised in the prevention of radicalisation. In 2022, the Ministry of Justice had to relaunch the call for tender, and it was won again by Groupe SOS.

Hence, the main disengagement programme in France has been running for five years. It is called Individualised Support and Social Reaffiliation Programme (PAIRS). Like RIVE, PAIRS is organised around three pillars: social, psychological, and ideological. However, there are several differences between the two initiatives. First, the method is not the same: contrary to RIVE, PAIRS is not conceived as a mentoring programme. PAIRS' directors describe it as an “empowerment” and “recovery” programme that helps participants fulfil their plans, as long as they are lawful and realistic. Second, the tools are different: PAIRS' professionals do not use VERA-2R nor LS-CMI. Each professional can use its own tools. An analytical grid has also been developed by the team, but it does not seem to be systematically used. Third, the organisation of the programme is more flexible in order to adapt to participants' needs: the intensity of interviews and activities can vary between three and twenty hours per week. Fourth, the scale is different. In its first four years of operation, PAIRS had around 250 participants. The former national director of the programme said that in Paris, the situation became complicated because of the growing number of participants. He described what may turn into an industrial process – a mix of Taylorism and uberisation applied to disengagement. He explained that this evolution had negative consequences on both the management and the mood of the employees,⁶⁴ which staff members confirmed and described as a major cause of employee turnover.⁶⁵

Until recently, the most remarkable achievement of the PAIRS programme was the absence of recidivism. Two (male) participants had nonetheless planned to perpetrate an attack. Both projects were foiled, and the former director of PAIRS claimed that the programme had played its role in alerting the authorities about the lack of progress of the two individuals.⁶⁶ Other participants – especially former RAD inmates – were also reincarcerated, but for infractions unrelated to terrorism. Then, on 2 December 2023, a terrorist attack took place in Paris resulting in the death of a tourist. The attacker was a PAIRS’ participant who was suffering from serious mental health issues.⁶⁷

Thus far, approximately 30 percent of PAIRS’ participants have been women (70 out of 250 between 2018 and 2022). Professionals acknowledge that there is no real difference in the methodology used to deal with men and women. One former local director explained: “Gender is not the issue. We want to address individual needs.”⁶⁸ That being said, certain topics discussed with the participants are specific to or more recurring for women: sexual violence, gynaecological needs, raising children, wearing the Islamic veil, etc.

In 2022, 97 TIS were released from prison.⁶⁹ Approximately 170 had already been released in the two previous years. This trend had been anticipated, and incited lawmakers to reinforce measures to combat recidivism. A law that allowed for restrictions to be applied to former inmates (i.e., wearing an electronic surveillance bracelet under specific conditions) was adopted on 10 August 2020, but it was later censored by the *Conseil Constitutionnel*.⁷⁰ Consequently, members of Parliament voted another law on 30 July 2021. Before this new piece of legislation, it was only possible to force someone to take part in a disengagement and reintegration programme if it was included in the original court decision. For instance, in the sample of 94 cases, fifteen have been ordered to take part in such a programme. Among other measures, the new law allows sentencing judges to decide, at the end of the execution of a sentence, to add the obligation to participate in a reintegration or disengagement scheme. Strict conditions must be met: the initial sentence must be more than a five-year imprisonment (or three years in the case of recidivism), the person must be “particularly dangerous”, the recidivism probability must be very high, and the former detainee must still adhere to an ideology that incites terrorism.

Former terrorist inmates can be subjected to other judicial or administrative measures. For instance, individual measures of administrative control and surveillance (MICAS) are decided by the ministry of the Interior. A former prisoner can be obliged to stay in a city or a department for up to one year (with temporary exemptions), and to check in at the police station (or the gendarmerie) up to once a day. The 30 July 2021 law prolonged this period for an additional year, but this extension was deemed unconstitutional by the Constitutional Council (*Conseil Constitutionnel*).

Another example of a measure applied to former terrorist inmates is their registration in the National Database for Terrorist Offenders (FIJAIT). The individuals registered in this database (created in 2015) have to respect the following obligations for ten years (five years for minors): report their residence every three months; if they move out, they have fifteen days to report their new address; if they want to travel abroad, they have to report it fifteen days prior to their departure; if they live abroad and want to visit France, they have to report it fifteen days before their arrival.

To sum up, the French system that deals with former terrorist inmates is a mix of soft and hard measures decided and applied by actors who belong to different institutions (the Ministry of the Interior, the Ministry of Justice, NGOs, etc.). The main idea is to help those who may be

able to reintegrate, while impeding those who still adhere to the jihadist ideology and may pose a risk for society.

Conclusion

The French approach to jihadism in general and female jihadists specifically has evolved immensely over the past decade. At the beginning of the Syrian networks, women were considered by the public and by the authorities almost as victims of men (often their husbands or future husbands) who had allegedly forced them (or brainwashed them) to travel to Syria. They were often presented as naive and submissive, especially when they were young. Women were also associated with the notion of “care,” frequently depicted as willing to help Syrian children hit by the war.

This gender-biased view changed for several reasons. First, over the years, with the growing amount of information and intelligence collected, it became obvious that women could play an active and even leading role in the radicalisation of a couple or a family. Second, after the creation of ISIS in 2013 and the multiplication of massacres and exactions, their humanitarian narrative appeared more and more irrelevant. Third, women (Hayat B. in January and Hasna A. in November) played an indirect role in the 2015 attacks. Fourth, the attempted attack near the Notre-Dame cathedral and several other plots foiled in 2016 and 2017 showed that women (even teenagers) could plan attacks. Fifth, ISIS’ official position about women taking part in combats shifted in 2017 and 2018, and female jihadists were called to arms.

Consequently, the French authorities have become harsher in their treatment of female jihadists. For instance, since 2016, female returnees have been systematically indicted. In prison, the system that applied to men (with QERs and QPRs) was replicated for women. It does seem that women are now considered as jihadists in the same way men are, i.e., as terrorists.

However, it may be time to slightly “re-genderise” this approach in order to rebalance the notion of violence from the role women can play in a radicalised community. A practitioner who has worked on female jihadists for a decade explained that when women resort to violence, it is a distortion of the original societal project epitomised by the Islamic State. She said: “A female jihadi is a jihadist wife. Those who resort to violence are just jihadists. They erased the gender-dimension.”⁷¹ This quote is in line with the so-called al-Khansa brigade manifesto written by ISIS female members in 2015: “The correct place for woman in society is one of serenity, among her children and family, nurturing, teaching, preserving, and raising the future generations.”⁷²

Most of the French female returnees probably did not resort to violence when they were in Syria or Iraq. But that does not mean that they did not play a role in supporting a terrorist organisation. The same practitioner argued that if we focus on violence, we may miss the point and end up misestimating the danger these women pose. Yet for the majority, this danger is more related to their central role in an authoritarian societal project than in their ability to perpetrate attacks. “What is recidivism for female TIS?”, the practitioner asked. “Joining the organisation again? Raising children in the same ideology? Or do we want to prevent something that they never did, resorting to violence?”

For years, the concept of deradicalisation has been criticised and has been growingly replaced by the notions of disengagement or reintegration. But if we consider that violence may not be

the core issue for women, then the focus should really be on deradicalisation. And for those who are already deradicalised, it is crucial to ensure that they remain out of reach from their previous networks.

Case Study: Inès M.

Inès M. was born in 1997 in one of the poorest departments in Metropolitan France. She was kicked out of junior high school and had a history of alcohol and drug abuse. After she dropped out of school, she suffered from personal traumatic experiences and had difficulties starting a career. This was when she briefly attended an Arabic language institute, allegedly close to the Muslim Brotherhood.

Eventually in 2014, she met Anissa M., who was 10 years older than her and played an important role in her radicalisation. Anissa M. left France for Syria in January 2015 and maintained contact with Inès M. In May 2015, Inès M. began a relationship with a man who was later sentenced for spreading terrorist propaganda and deported to Tunisia. At the end of 2015 and early 2016, she spent a lot of time alone in her bedroom watching ISIS propaganda and chatting with people in Syria. Her parents became worried, prevented her from going out, confiscated her phone, and reached out to associations for help. Subsequently, the Ministry of the Interior intervened, and she was given an administrative ban from leaving France in February 2016.

Following, she became very active on Telegram as an ISIS recruiter, drafting people who wanted to travel to Syria, but also individuals whose objective was to perpetrate attacks in France. She created male aliases with which she became the emir of two terrorist groups. The first group was composed of men only. When she had to meet them physically, she pretended to be the sister of her alias, acting as an intermediary for security reasons. The second group was composed of women. Inès M. managed to seduce another woman while pretending to be her male alias. The other woman fell in love, decided to divorce her husband, marry Inès M.'s alias and plot an attack with him. Inès M. and the woman ended up parking a car filled with gas canisters nearby the Notre-Dame cathedral in Paris in September 2016. However, the car did not explode as planned because the cigarette they had placed there did not ignite. The women then fled. A few days later, Inès M. was shot in the legs while walking towards policemen with a knife. This arrest came after she had reached out to two other women in order to plan another attack.

Three years after her arrest, in 2019, Inès M. was sentenced to eight years imprisonment for her involvement in the first terrorist group which also involved recruitment activities, and to 30 years imprisonment for plotting the Notre-Dame attack. The case was held before the Specially composed Assize Court (*Cour d'Assises spécialement composée*) that hears terrorism cases solely before professional judges, without a jury. Inès M. appealed the verdict in relation to the Notre-Dame attack, but her sentence was confirmed in appeal in 2021.

She played an important role in changing the public perception of women involved in the jihadi sphere. The case of Inès M. clearly showed that women within terrorist organisations also have agency and are able to play operational roles, including in plotting and carrying out attacks.

Source: Case 18/0065, Inès M., Cour d'Assises Spécialement Composée, 14 October 2019, on file with the author; Case 14350000539, Inès M., Cour d'Appel de Paris, 7 June 2021, on file with the author.

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- ³ Informal conversation with a terrorism specialist at the ministry of Justice, Paris, 13 May 2023.
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4

The German Approach to Female Violent Extremist Offenders

Sofia Koller

Since 2011, more than 1,150 individuals travelled from Germany to Syria and Iraq, mostly to support the so-called Islamic State (ISIS).¹ Around one quarter were women and girls. Since then, 40 percent of original travellers returned, including at least 129 adult women.² While many women returned voluntarily before the fall of the so-called caliphate, Germany has also carried out seven repatriation missions to bring back 27 adult women, 80 minors, and one adult man from Northeast Syria.³ In the sample analysed for this book, the majority of the prosecuted women who had travelled to a conflict zone returned via government-led repatriation (44 percent), around one third were expelled (usually after having crossed the Syria-Turkey border, 32 percent), and only eighteen percent returned on their own initiative (Figure 4.1). A few women (and their children) remain in Kurdish-administered camps or are detained in Iraqi prisons. Several women did not manage to travel to Syria and Iraq at all (disrupted travellers) or decided to support terrorist organisations from Germany.

Taken together, the relatively high number of women and girls supporting Islamist terrorist organisations – referred to as female violent extremist offenders (VEOs) once prosecuted – presented a new challenge to German governmental and non-governmental actors. Due to Germany's federal structure, justice and security are the responsibility of the German States. Hence, terrorist offenders are prosecuted in different local or regional courts, serve their sentence in different prisons, usually in their state of origin, and are supported by different governmental and non-governmental actors: each state and prison deals only with few female VEOs, making the analysis of “the German approach” challenging.

This chapter aims to provide a comprehensive overview of responses to female VEOs with a connection to Syria and Iraq in Germany. In-depth, semi-structured interviews were conducted with eighteen subject matter experts between March and June 2023, working on state or federal level on the prosecution, rehabilitation, and reintegration of female VEOs, representing both civil society organisations and governmental actors.⁴ Interviews on rehabilitation focused on the six states with the highest number of returnees – Bavaria, Berlin, Hamburg, Hesse, Lower Saxony, and North Rhine Westphalia. The author was also provided with anonymised verdicts of female VEOs by Federal and State Public Prosecutors, not claiming completeness of the sample. This chapter will discuss the German approaches on criminal prosecution, prison management, rehabilitation in prison as well as reintegration into society after release.

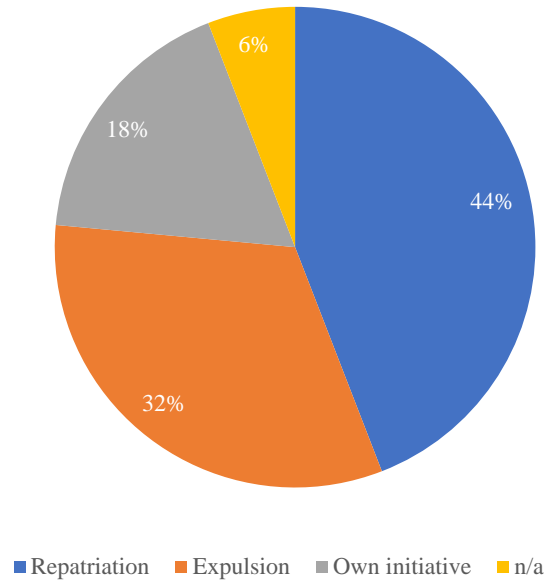


Figure 4.1: Mode of return of women who travelled to the conflict zone from Germany and were later prosecuted in Germany (n=34; as of 15 July 2023)

Prosecuting female VEOs

While first departures to Syria and Iraq were not a big concern for German prosecutors, the number of travellers from Germany reached a peak in mid-2014 before decreasing in 2014 and 2015.⁵ Hence, the Federal Public Prosecutors' Office (GBA) started requesting "prosecution authorisations" to enable the prosecution of returnees for their involvement in foreign terrorist organisations, which the Ministry of Justice started issuing for Jabhat al Nusra (2013), ISIS (2014), and Islamic State (2015).⁶ In 2015, the criminal code was adjusted to also enable prosecution where membership in a terrorist organisation could not be proven, instead criminalising the attempted or successful travel to prepare or train for acts of terrorism abroad (section 89a German Criminal Code, StGB) as well as providing funds for terrorist organisations (section 89c StGB).⁷ As of 2023, prosecuting terrorism-related offences centres on support or membership in a terrorist organisation (section 129a) abroad (section 129b StGB), preparation of a serious act threatening the state and financing of terrorism (section 89a-c StGB). These more serious terrorism-related offences are handled by the GBA, while the State Security Units within the State Prosecutor's Offices (GenStA) are responsible for most other terrorism-related cases.

The first large returnee wave in 2014/2015 consisted of many men who had committed very serious crimes that were sometimes publicly documented, hence becoming investigators' priority.⁸ A preliminary proceeding must be initiated as soon as the GBA has initial suspicion of a criminal offence (section 160 Code of Criminal Procedure, StPO). However, Germany does not allow trials *in absentia* and the defendant must be present in court at all times.⁹ Due to the high number of returnee cases, the GBA also started delegating most cases to state prosecutors while reclaiming cases of particular importance. Hence, the Bavarian State Prosecutor's Office (GenStA), for example, established a Central Unit for Countering Extremism and Terrorism (ZET) in 2017 to deal with terrorism-related cases, including those delegated by the GBA.¹⁰

While the mobilisation of women joining ISIS was unprecedented, there are several reasons why female returnees were at first not systematically investigated and prosecuted. Not only were female returnees usually involved in less serious crimes, but fewer details were known due to ISIS policy confining women to the domestic sphere. Hence, some women were only arrested months after their return, once investigations of other cases unearthed relevant evidence since the more they investigated, the more they uncovered, especially regarding less public activities in ISIS territory.¹¹ In the past decade, it has become clear that German women were indeed mostly supporting their ISIS husbands as housewives, sometimes also taking care of washing and cooking for their husband's *khatiba* (fighting unit).¹² Western women had higher status and due to the lack of women, widows were encouraged to re-marry quickly.¹³ Almost all German women who had travelled to the conflict zone are parents, either having brought their children with them to ISIS territory, or having at least one child while abroad. In the sample, a thin majority did not have any children at the moment of departure (56 percent, see Figure 4.2).

Women were expected to bear children and educate this next generation according to ISIS ideology. But many German women were also engaged in propaganda, praising their life in the so-called caliphate on social media to recruit other (Western) women, often also facilitating their travels. As ISIS developed more professional structures, for example, female-only combat units or specialised units to discipline other women and gather intelligence on them, there is little evidence that more than very few German women were actually involved in such violence-oriented activities.¹⁴ However, individual women unsuccessfully tried to volunteer for such activities. For example, Omaina A. and Sarah O. had tried to register for armed combat together.¹⁵ Both were convicted for, inter alia, membership in a foreign terrorist organisation. Investigators had trouble understanding this new phenomenon of women being actively recruited by ISIS to travel and developing adequate legal argumentation regarding the question of whether their involvement amounted to terrorist membership. While gender bias also played a role, some interviewees instead stressed Germany's previous experience with extremist women in key roles, for example with the Red Army Faction.¹⁶

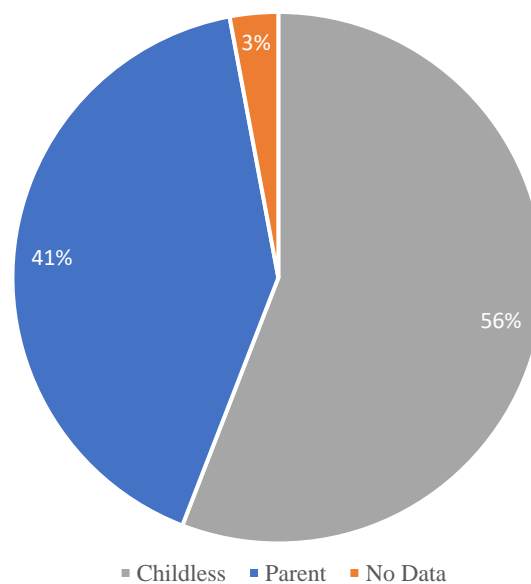


Figure 4.2: Parent status of female VEOs on departure from Germany to conflict zone (n=34; as of 15 July 2023)

The 2018 Turning Point

Germany began prosecuting female returnees more systematically from 2018 onwards.¹⁷ The return of Sibel H. triggered this development: the German Federal Court of Justice (BGH) declined to issue an arrest warrant as requested by the GBA. They did not agree with the GBA's argument that women like Sibel H. should be charged with ISIS membership for only having lived in its territory without having participated in concrete terrorist activities.¹ Since women were usually not involved in violence-oriented activities like training or combat – often the basis for sections 129a and 129b StGB – additional evidence was needed. The GBA, however, assessed that “otherwise legal activities such as marrying an IS[IS] fighter and running a household in IS[IS] territory constitutes the basis for [ISIS] membership”.¹⁸ Since then, prosecutors have successfully argued that female returnees had, for example, enabled the terrorism-related activities of their husbands as ISIS fighters. In the past years, the GBA has gathered more evidence and established a certain routine and “enough experience to know how to legally evaluate” female returnee cases.¹⁹

As of 2023, courts usually follow the GBA's assessment regarding women's terrorist membership in their verdicts. Since 2018, female returnees often have an arrest warrant pending and are detained upon arrival. But women who returned before were in many cases not on the radar of prosecutors. For example, Derya Ö. had returned in August 2017, spoke about her time with ISIS in a documentary and was only then charged and in the end sentenced to two years and nine months in prison: “if she had kept her mouth shut, nothing would have happened.”²⁰

Core International Crimes

Another key aspect of the prosecution of German female returnees has become core international crimes according to the German Code of Crimes against International Law (VStGB). Since 2002, when all penal provisions of the Rome Statute of the International Criminal Court were incorporated into German criminal law to create the VStGB, prosecutors can exercise universal jurisdiction, meaning the GBA can initiate criminal investigations for crimes even if they have not happened in Germany and neither victim nor perpetrator hold German nationality. Prosecutions can be initiated into genocide (section 6 VStGB), crimes against humanity (section 7 VStGB) and war crimes (sections 8 to 12 VStGB). Without any tie to Germany, prosecutorial discretion applies (section 153f StPO). Hence, the GBA usually only prosecutes for core international crimes that were committed abroad in three constellations: if victims or perpetrators are German; if victims or perpetrators are in Germany; or if the prosecution would support the International Criminal Court (ICC) and international tribunals. For example, while it was male ISIS members who had purchased Yazidi slaves, women have prevented enslaved Yazidi women and girls from fleeing their house, exploited their labour, or physically abused them. Others recruited their own children as child soldiers. In total, twelve German female returnees have been convicted for perpetrating or aiding and abetting core international crimes. For example, Iraqi national Taha Al-J. and German national Jennifer W. have been prosecuted under universal jurisdiction and were convicted for having enslaved a Yazidi woman and her daughter, resulting in the child's death.²¹

In addition, female returnees have been charged with war crimes against property (section 9 VStGB). Even before 2018, there were indications that several German women had lived in flats and houses that ISIS had taken from their legal owners and provided to ISIS families.

¹ Traveling to Syria to join a terrorist organisation—even if the membership itself cannot be proven—has only become an offence in Germany since 2015.

After 2018, prosecutors started to argue that living in such pillaged accommodation constituted a war crime against property. This assessment was used to support ISIS membership charges, since by living in looted houses, the women had consolidated ISIS' territorial claim, and as an end in itself. The GBA can indeed combine investigations for terrorist and other offences from the beginning and during the investigation, leading to more flexibility and the ability to initiate investigations more quickly. German authorities have "implemented [this] concept of Cumulative Prosecution at an early stage."²² The GBA has been charging and convicting female returnees for membership in a foreign terrorist organisation, core international crimes, as well as national crimes such as failure to fulfil their duty of care and education or violation of the war weapons control act. In the sample of prosecutions, the majority of female VEOs were indicted (80 percent), as well as convicted (73 percent) for some combination of terrorism-related charges as well as core international crimes and domestic crimes (Figure 4.3). Even more, core international crimes were included in around half of the cumulative indictments and convictions. As of 2023, only those cases of female returnees which involve core international crimes remain with the GBA.

Convicting German Female VEOs

In total, the sample included 49 cases of female VEOs who have been, or are currently being, prosecuted for terrorism-related crimes with a connection to Syria or Iraq, including 39 returnees.²³ Since one woman, Omaina A., had been convicted twice, the total number of female VEOs in the sample amounts to 48 women. In addition, as of 15 July 2023, a total of 35 of these 48 women of our sample have received a final verdict, amounting to 36 cases (Figure 4.4). In five cases, an appeal was pending, two cases were still on trial, two other women were awaiting the start of their trial, and four women were still being investigated. Due to the presumption of innocence, these cases that have not yet led to a verdict have not been included in the analysis. The analysis is hence based on the 41 cases involving 40 women who have received at least a first instance verdict as of 15 July 2023.

The majority of convicted female VEOs in the sample have been convicted of membership in a foreign terrorist organisation (33 out of 41 cases) and only seventeen percent have been convicted of support of a foreign terrorist organisation (see Figure 4.5). Notably, none of the three women initially charged with preparation of a serious act threatening the state (section 89a StGB) was convicted of this offence. In addition, German female returnees were convicted for several other crimes under domestic law, including:

- crimes affecting their children (such as failure to fulfil their duty of care and education or abduction of minors);
- violation of the Weapons Control Act (such as handling a Kalashnikov);
- human trafficking;
- deprivation of liberty;
- attempted murder or aiding and abetting murder;
- violation of the prohibition of provisions of the Foreign Trade and Payments Act (AWG);
- causing bodily harm; and
- failing to report a crime.

The majority of cases (68.3 percent) were prosecuted under common criminal procedure, 26.8 percent were juvenile justice cases, and 4.9 percent of the cases resulted in plea agreements.

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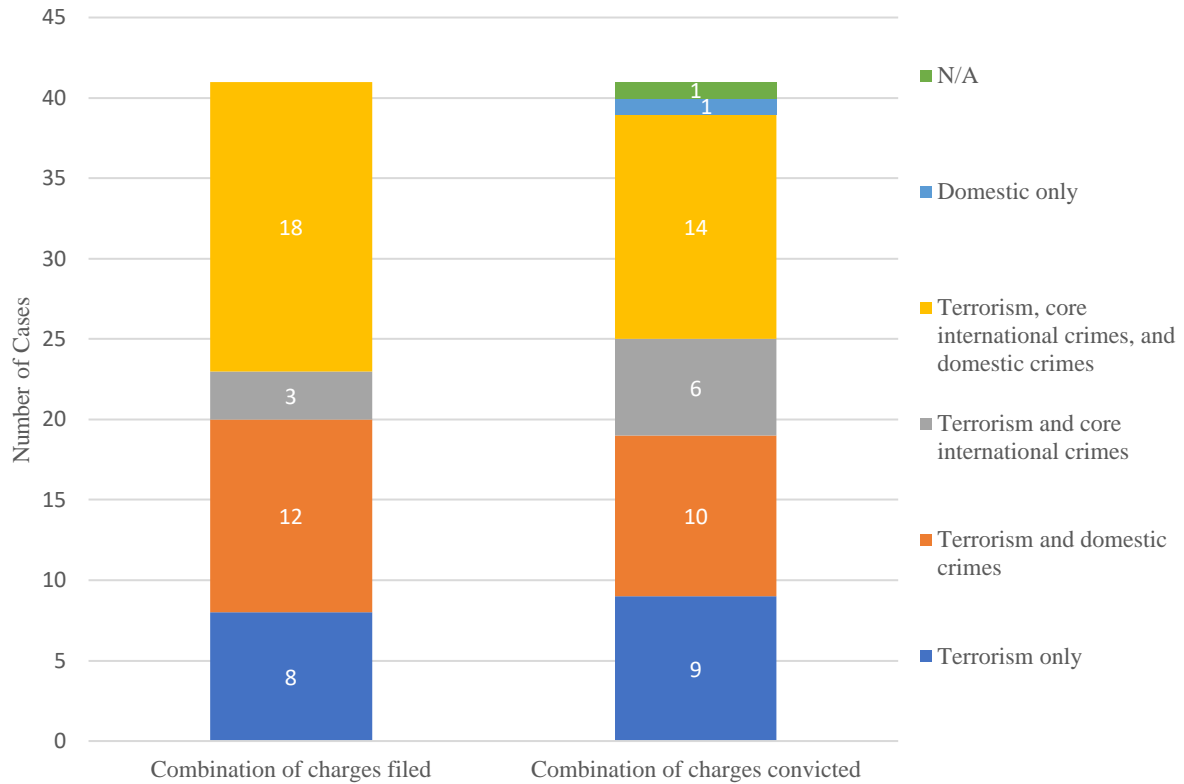


Figure 4.3: Cumulative indictments and convictions filed against female VEOs in Germany (n=41, as of 15 July 2023)

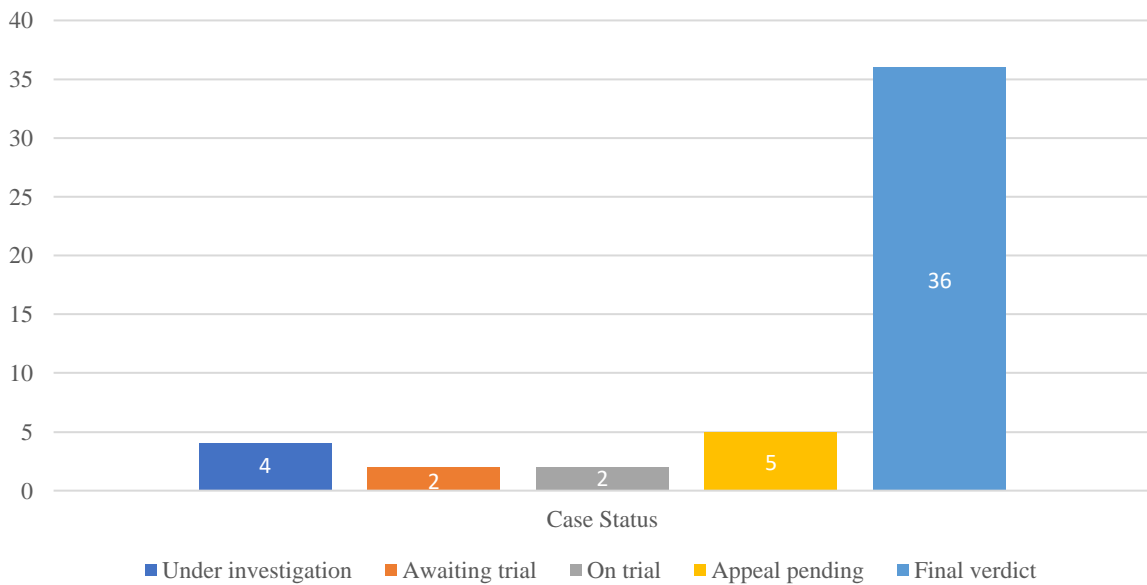


Figure 4.4: Case status of prosecutions of female VEOs in Germany (n=49; as of 15 July 2023)

Charges	Membership in a Terrorist Organisation	Support of a Terrorist Organisation	Preparation of Terrorist Crimes	No information available
Filed	34	7	3	0
Convicted	33	7	0	1

Figure 4.5: Charges and convictions of female VEOs for terrorism related crimes in Germany (n=41; as of 15 July 2023)

Prosecuting Non-Returnees

The approach to prosecuting women who did not travel, but supported organisations such as ISIS from Germany, is slightly different. First, such cases of female VEOs usually remain with state public prosecutors. For example, Andrea B. took her two underage daughters against the will of the girls' father to the Turkish-Syrian border, where she remained until her voluntary return in May 2014.²⁴ While she was also charged with preparing a serious act of state threatening violence, the Higher Regional Court in Munich convicted her only for abduction of minors and sentenced her to one and a half years on probation. More serious cases were seized by the GBA. A well-known case is German-Moroccan Safia S., who had unsuccessfully tried to join ISIS at the age of fifteen and instead tried to kill a police officer with a knife to demonstrate her support for ISIS.²⁵ She was convicted of attempted murder, dangerous bodily injury, and support of a foreign terrorist organisation and sentenced to six years juvenile detention. Another example is Denise S., who had stayed with her Iraqi husband in Germany and collected money for ISIS.²⁶ There are also cases such as the unnamed 69-year-old German and Turkish national who sent almost €7,000 to her grandson fighting for ISIS in Syria.²⁷ The Higher Regional Court in Dusseldorf convicted her for support of a foreign terrorist organisation and violation of the prohibition of provisions of the Foreign Trade and Payments Act (sections 17 and 18 AWG) and sentenced her to one year and six months on probation. In general, the most common offence that non-returnees have been charged with and were usually also convicted for is support of a foreign terrorist organisation.

Finally, minor cases that usually do not amount to terrorist support (and have not been included in the sample) but for example do violation of the AWG and related acts can be heard before one of the 688 *Amtsgerichte* (local courts). For example, in April 2018, the local court in Munich convicted a German woman for having tried to send €400 to her sister who had joined ISIS in 2015.²⁸

Sentencing German female VEOs

In the case of a conviction under StGB, adequate criminal sanctions include either a fine or imprisonment as well as additional corrective and protective measures. Under German criminal code, the different sections also include the penalty range. For example, sections 129a and 129b StGB requires a minimum prison sentence of one year, which excludes paying a fine. Factors that are taken into consideration when deciding sentences are for example the crime's scope (whether it is a lesser or more serious case) and the individual's situation, including resocialisation prognosis (section 46 StGB). In addition, the circumstances and motivation of the prolonged stay in Syria or Iraq, for example whether the returnee had options to leave ISIS

territory, can be considered mitigating factors. The stay in camps in Northeast Syria are also taken into consideration in the sentencing decision.²⁹ Finally, parents with (small) children are considered more *haftempfindlich*, meaning that a prison sentence is likely to have a more negative impact, especially as the child's welfare is considered in the sentencing decision. However, both male and female returnees with children can and have been convicted to prison sentences.³⁰

In some cases – for example prison sentences of less than two years – a prison sentence may also be suspended to be served on probation instead of in detention (section 56 StGB). This probation period comprises between two and five years; if the convict violates conditions during this period or re-offends, he or she can be ordered to serve the full prison sentence in detention. A court-ordered probation officer helps the offender with reintegration and fulfilling probation obligations, for example to report to a specific authority at specific times, to notify of any change of residence or to avoid contact with certain individuals. Individual sentences for each convicted crime are not accumulated but the highest individual sentence will be taken as the starting point and adequately prolonged, leaving a rather wide scope for the judges (sections 52 to 55 StGB). For example, the prison sentence for a conviction according to sections 129a and 129b StGB can range from one to ten years in prison. Convictions for core international crimes according to the VStGB, or serious national crimes such as murder or rape are hence leading to significantly higher prison sentences.

For the German female VEOs in the sample, the average prison sentence pronounced in the verdict is four years, eight months, and five days.³¹ However, the actual average time spent in prison is likely shorter, since pre-trial detention is deducted, some sentences are suspended on probation, and inmates can be eligible for early release.

In general, maximum sentences are only handed out for example in cases of “particular gravity of the guilt,”³² if the defendant is a former convict, or does not (at least partly) confess.³³ Hence, maximum sentences remain the exception and interviewees estimated that regarding female VEOs, the majority of sentences remained in the lower third since most returnees, and especially women, were not leading figures in their organisation.³⁴ Double digit sentences also remain the exception, with the longest prison sentences being fourteen years (Jennifer W., on second instance, again appealed) and nine years and three months (Nadine K., on first instance, appealed).ⁱⁱ At least thirteen female returnees received prison sentences suspended on probation.

Hence, some actors argued that there is little difference in the sentencing of male and female returnees.³⁵ In general, it is difficult to compare the cases because male and female ISIS members had such different roles.³⁶ Some female returnees have received higher sentences due to core international crimes convictions for crimes committed against enslaved Yazidis.³⁷ As of December 2023, no German male returnee has been charged and convicted for such crimes. Also, male returnees were often not convicted for actual fighting (equivalent to a higher sentence) due to lack of evidence for anything beyond combat training. Others argued that female membership (taking care of the household) and male membership (fighting) did not “belong on the same level”.³⁸ There was often no concrete evidence that a woman was actually integrated into ISIS structures, for example receiving a monthly allowance. Finally, longer stays in ISIS territory were often linked to higher sentences.³⁹

ⁱⁱ Though their verdicts are not included in the dataset.

Germany	Prosecuting Country		Foreign Nationality Only
	Single Citizenship	Dual Citizenship	
n=40	29	10	1

Figure 4.6: Citizenship of female VEOs prosecuted in Germany (n=40; as of 15 July 2023)

While the majority of female VEOs in our sample only hold a German citizenship, a quarter (ten out of 40 women) hold German as well as another citizenship (Figure 4.6.). Though dual nationals can lose their German nationality if they participate in combat of terrorist organisations abroad since 2019, this law cannot be applied retroactively.⁴⁰ Some non-German nationals “from the Islamist spectrum” have been deported, but no cases of citizenship stripping or deportation of female VEOs have been reported.⁴¹

Challenges

When prosecuting terrorism-related offences, accessing evidence is the key challenge. Insights from security and intelligence agencies highlight that monitored online communications, for example, are crucial. Regarding returnees, prosecutors often depend on statements of the defendants themselves, ISIS publications such as *fatwas* on Yazidi slaves, and expert evidence, since investigations at crime scenes in Syria and Iraq are not possible, and even using instruments of legal assistance in Iraq are difficult.⁴² For example, it can be difficult to prove core international crimes such as the war crime of looting (section 9 VStGB), since the material, mental, and contextual elements need to be proven in court.

Hence, during preliminary proceedings, evidence and information gathered by the Federal Criminal Police Office (BKA) when questioning German nationals in the camps and during their return flight for security prevention purposes often contributes to initiating a criminal procedure.⁴³ In 2014, the GBA also initiated a structural investigation on crimes committed by non-state armed groups such as ISIS to systematically gather all available data in one file.⁴⁴ Such files can be used in individual indictments (so as to include legal assessments or details of conditions on the grounds that apply to several or even all cases, for example general explanations of ISIS’ structure, rise and fall, and which do not need to be re-evaluated for every case individually) and are kept up to date.⁴⁵ Described as a “very important” tool, structural investigations benefit from good cooperation between security services and include, for example, important videos, translation of key publications, and information regarding conditions on the ground.⁴⁶ In addition, mechanisms such as the United Nations Investigative Team for Accountability of Da’esh/ISIL (UNITAD) and the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011 (IIIM) help locating witnesses, cornerstones of many trials against female returnees. Germany had a large Yazidi community even before a state government-sponsored contingent of 1,100 Iraqi survivors (mostly Yazidi women), arrived in Germany in 2015 and 2016.⁴⁷ While many potential victims are already in the country, survivors require a sensitive approach to questioning.⁴⁸ They are often traumatised, some have little or no education, and speaking publicly about sexualised violence can lead to exclusion from their community.

Objective, and thus more reliable, evidence is hard to find, and the trials can only provide “snapshots”.⁴⁹ Fully covered women are also more difficult to identify in pictures or videos.

As opposed to prosecutors, the defence faces partly different challenges. According to some defence lawyers, the biggest challenge when legally representing female VEOs and especially returnees, was the lack of alternative access to information. For example, when lawyers want to introduce evidence, they face even more difficulties than the GBA when locating documents abroad or summoning exonerating witnesses living outside of Germany, leading to an imbalance of information.⁵⁰ In addition, some charges, such as terrorist membership or war crimes against property according to the VStGB, were in their opinion confirmed too easily. Usually, establishing guilt in the context of criminal law has very high requirements. However, in several cases, key facts about the women’s integration into ISIS structures or looted house’s former occupants and exact location had not been clearly proven. Such remaining doubts would hinder a conviction if German criminal law was applicable, but the VStGB context would simply “wipe away” these uncertainties and courts assessed the charges to be confirmed.ⁱⁱⁱ In this context, some defence lawyers find that state security procedures – criminal proceedings that involve politically motivated crimes – are politically motivated since “all actors know that their decisions will be commented on in the media the next day.”⁵¹ Rarely, they argue, charges were dropped or defendants acquitted because it might reflect badly if alleged ISIS affiliates had been repatriated. In addition, some defence lawyers criticise security measures during pre-trial detention, for example glass screens during visits and monitored correspondence.⁵²

Other actors confirmed that the difficulty to access information means that even if a first arrest warrant is denied by the investigative judge, investigations against VEOs can continue for years.⁵³ The GBA cannot discontinue the procedure because of insignificance since membership in a terrorist organization (section 129a StGB) alone equals at least one year in prison.⁵⁴

Some experts also warned of terrorism-related charges being pressed increasingly early in the terrorist planning process.⁵⁵ For example, travellers who did not even know which organisations they wanted to join were charged with preparation of a terrorist act, or parents who sent money to their children were charged with terrorism financing.

Overall, some interviewees acknowledged that the prosecution of female returnees was more challenging and had started later but did not see much difference in prosecutorial approaches to men and women anymore, stressing each case’s individuality.⁵⁶

Prison Management of Female VEOs

In Germany, justice and security are matters of the sixteen *Bundesländer* with each state deciding on their own policies, programs, and projects but exchanging on a federal level. The increased number of investigations against individuals traveling to Syria and Iraq, supporters remaining in Germany, and returnees had an important impact on federal and state level. For example, the 2016 Prevention of Extremism Strategy includes the government’s intention to “intensify mutual exchange with the *Bundesländer* in the field of deradicalisation in penal institutions” and to “intensify work in prisons as well as work with recently released prisoners”.⁵⁷ This led to adaptations in state responses as well as individual detention planning.

ⁱⁱⁱ While in twelve cases, female returnees have been convicted for pillaging, in three cases, the charges were dropped or the women acquitted (Sarah O., Zeynep G., and Nadine K.).

One key concern was returnees and other VEOs building networks and radicalising other inmates. The German response was to disperse VEOs among the prison population as well as separate them from each other especially during pre-trial detention, housing them in different units or even prisons within the same state.⁵⁸ In addition, the past decade has seen increased efforts to train prison staff, work with external actors, and exchange challenges and good practices.⁵⁹

In general, *Bundesländer* largely differentiate between individuals convicted for a terrorism-related crimes (either referred to as Group 1 or Category 1) and those convicted for other crimes but considered radicalised (Group 2 or Category 2). VEOs usually fall under the first category and normally arrive in prison with a court order, including specific security measures during accommodation and transport as well as online and offline contact restrictions. Prisons can also report individuals to the criminal police's state security units to decide additional measures. Some states use a third category for individuals vulnerable to radicalisation.

Enforcement Planning

In terms of process, once the GBA has successfully requested an arrest warrant from the investigating judge, those suspected of or charged with terrorist membership can be placed in pre-trial detention without further conditions (section 112 (3) StPO). Indeed, the majority of female VEOs in our sample stayed in continuous (75 percent) or at least temporary pre-trial detention (twelve percent; see Figure 4.7). Only five percent were not detained at all. All inmates arriving in pre-trial detention first undergo a referral and diagnostic process – including conversations and analysis of the inmate's file – carried out by the prison's admission or referral units (section 152 Penitentiary Act, StVollzG).⁶⁰ This initial assessment informs detention planning (such as housing) and aims to detect potential stress factors (such as suicidal risk) as well as address needs (such as psychological counselling).⁶¹

Often, VEOs already come with a court order demanding increased security measures and must be placed in units that can fulfil such obligations, especially during the first weeks of (risk) assessment. In these units, VEOs can also be separated from other inmates during their free time (section 119 StPO). One female returnee had at first such a strict court-ordered detention statute, that she had been in quasi-solitary detention for several months.⁶² In general, inmates can be placed in solitary detention for a maximum of four weeks (two weeks for juvenile offenders) as a punishment for having breached the rules (section 103 StVollzG) and “if this is indispensable for reasons that lie in the person of the inmate” (section 89 StVollzG). However, the prison's supervisory authority needs to provide approval if the solitary confinement exceeds, for example, three months (within one year) for adult inmates (section 89 StVollzG).

In some states, VEOs can already have first contacts with exit workers during pre-trial detention. The proper resocialisation planning and actual rehabilitation, including exit work, only starts once inmates receive the final verdict and are referred to a regular detention unit, either in the same or another prison. Once in regular detention, inmates are usually obliged to work or follow educational training. VEOs can then also be allowed to interact with each other, with the purpose of observing their behaviour. The different prison units – psychological and social, security, administration – regularly meet to discuss the prisoners' development. Any inmate who has been convicted to a prison sentence without probation can be released after having served at least half of the sentence (section 57 StGB). VEOs are eligible for such early release, and in some cases the same court who had sentenced the VEO also decides on potential

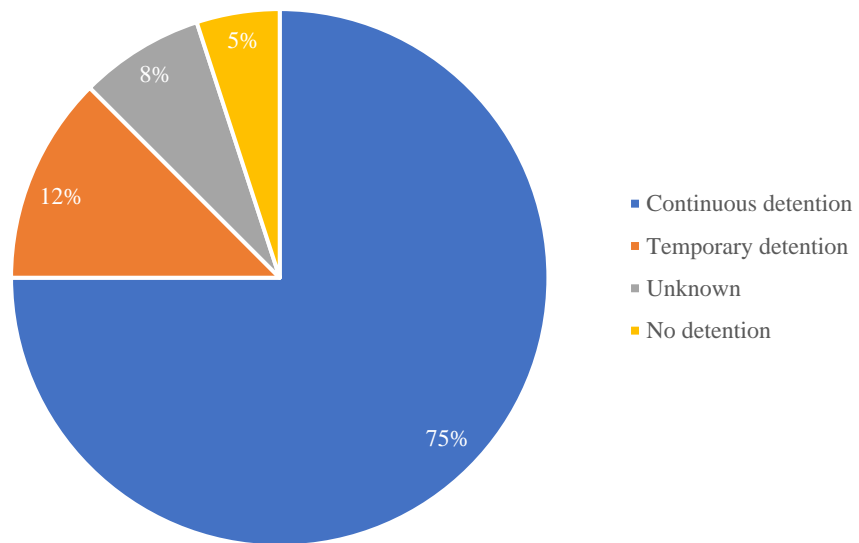


Figure 4.7: Pre-trial detention arrangements for female VEOs prosecuted in Germany (n=40; as of 15 July 2023)

early release.⁶³ Criteria for early release include the detainee’s personality, reflection process, and potential of recidivism. While both release after half or full sentence is rare, many or even most female VEOs are released after two thirds of their sentence is served.⁶⁴ Often, female VEOs had already been transferred to open detention, which means they had received a first positive assessment and could prove that they were able to abide by open detention conditions. Probation service, guidance supervision, and court service then support released offenders’ reintegration (see section “Reintegration of Female VEOs” below).

Measures for VEOs

Several additional measures have been implemented to assess VEOs and decide adequate responses in prison. Some states have established competence centres on extremism, specific units within state justice ministries which analyse relevant information and support prisons for example with the use of the risk assessment tool Violent Extremism Risk Assessment 2 Revised (VERA-2R). Some states like Berlin or Hamburg have specifically VERA-2R-trained psychologists within the justice ministry or prisons.⁶⁵ Results support prison staffs’ own risk and needs assessment. Upon arrival in detention, in addition to regular detention planning, VEOs undergo a proper risk assessment after the final verdict as well as before any potential relaxation of measures, such as outings or release.

In addition, prisons can implement individual measures, including observation during the whole duration of VEOs’ detention, more frequent controls of detention rooms or monitoring visitors, (prayer) groups, and reading material.⁶⁶ In the past decade, several states have significantly increased their own capacity around Islamist extremism.⁶⁷ In several states, relevant behaviour and personal development of VEOs can be reported to specifically trained staff.^{iv} Well-trained staff are considered a “decisive factor for the success of resocialisation measures of any kind, especially in dealing with extremist prisoners”.⁶⁸ Some states are also

^{iv} These include “structural observers” in Hesse, “counter extremism officers” in Bavaria or “reference officers” and “extremism officers” in Hamburg.

increasingly training their general staff to sensitise them on issues around religion and extremism (both Islamist and right-wing): some actors stressed that it was important not to play into extremist narratives with exaggerated security measures, for example mixing up normal religious practice and extremism.⁶⁹ Indeed, quantity and quality of staff is considered crucial, not only to detect warning sign but also to be able to build trusted relationships with inmates. While several interviewees agreed that prisons were by now quite sensitised to detect signs of potential radicalisation and able to intervene early on, correctional facilities are generally lacking staff.⁷⁰

Cooperation and exchange of information is crucial for this system to work since some of the relevant data is collected within the prisons itself (for example observations by staff or other prisoners), and some is collected by security agencies. Hence, case conferences can be used for internal and external actors to discuss a relaxation of measures or to address specific challenges that have been reported. The exact composition varies between states, as Hesse for example has one central point of contact for the prison administration within the state criminal police (LKA), while Bavaria uses a decentralised system.

In terms of numbers of incarcerated female VEOs, there is “no systematic and comprehensive data collection (...) regarding extremists in German prisons”.⁷¹ There are also no official statistics on the total number of Syria- and Iraq-related incarcerated or released female VEOs. According to the Federal Ministry of Justice (BMJ), there are 104 individuals in pre-trial or regular detention for Islamist terrorism-related offences as of June 30, 2022, but the ministry does not provide a gender breakdown for this number.⁷² One reason for the lack of data is that German *Bundesländer* use different categories for potentially relevant cases, or have inconsistent definitions for ‘extremist’ and ‘radicalised’ inmates.⁷³ Some states also point out that individuals might be counted twice in their statistics if they had been transferred to a prison in another state, or the statistics could be affected when they have to delete relevant data two years after release or transferal. However, according to the civil society organisation Grüner Vogel, there are 27 female VEOs incarcerated for Islamist terrorism-related charges in Germany.⁷⁴ In addition, in the six German states most affected by returnees (see “Introduction”), at least eighteen Syria and Iraq-related female VEOs, almost all of them returnees, were incarcerated in summer 2023. At least fifteen such individuals had been released from either pre-trial or regular detention since 2012.⁷⁵ Also, less than half of the more than 129 German adult female returnees are estimated to have not been incarcerated at all. Finally, less serious cases of female VEOs usually lead to suspended prison sentences on probation.

The level of radicalisation and security risk posed by female VEOs varies. Several actors reported that female returnees incarcerated in their state were no longer very ideologically radicalised or trying to radicalise others, but mostly well adapted and (unlike many other inmates) had no substance abuse issues. Several returnees were already considered disengaged, but many needed time and support to process their conviction and the consequences, including for their children. In several cases, high-risk assessments had been downgraded after police officers spoke to the women personally. One actor argued that if at all, female returnee’s potential risk after release was related to child endangerment.⁷⁶ However, women who had stayed in Germany were often less disengaged.⁷⁷

Challenges

Many states' concepts on approaches to prison management of VEOs address all forms of extremism. One interviewee argued that it was important to not create extra attention around extremists but "to handle all prisoners alike".⁷⁸ In addition, prison management measures for VEOs were not explicitly developed for men and did not really differ between men and women – assessing individual needs and risks was crucial.⁷⁹ However, some specific challenges for female VEO, especially returnees, were highlighted. On a practical level, the ratio of staff per inmate was usually higher in prisons for women, which can be helpful for monitoring and acceptance of counselling. At the same time, women's prisons had a more limited capacity to separate female returnees from each other. Also, women had different motivations to travel and other roles within ISIS than men and some had difficulties acknowledging their contribution, including crimes committed against their own children.⁸⁰ According to one expert, even prison staff did not always take women's involvement with ISIS seriously enough.⁸¹ Another expert shared her observation that women tended to be more ideologically committed than men and thus their risk assessment should focus on belief systems, including ideological education.⁸²

The majority of the female VEOs in the sample were mothers (85 percent), and returnees often had several children (see Figure 4.8), but most have been incarcerated without their children.^v One interviewee found that there was little or no interest from the children's fathers (often ex-partners) to get in touch with their children if the mother was incarcerated; children remained a "women's topic", both regarding enabling or prohibiting contact to avoid child endangerment.⁸³

Similar to other detainees, the primary concern is the child's welfare, which lies in the responsibility of the youth welfare service. Key relevant questions to consider include whether the mother has custody and/or guardianship of her child, and how prison would impact the child. For example, in one state, none of the incarcerated female returnees had been allowed to have contact with their child(ren) due to convictions for child neglect and the children being traumatised.⁸⁴ If allowed, prisons usually enable regular contact (also via video calls) and are supported by specialised counselling centres in some states, such as Grenzgänger (IFAK e.V.) in North Rhine Westphalia.⁸⁵ Due to security concerns, it can sometimes take a few months before prisons allow visits without glass screen during pre-trial detention⁸⁶ and one actor argued that a woman seeing her child once a month was already positive.⁸⁷ During regular detention, some detainees only have twelve visiting hours per months. Practically, a joint accommodation is not always possible. Some prisons only have a small mother-child-unit in regular detention.⁸⁸ It is possible to transfer the mother to another state or prison so that she can stay with her child, and one actor reported positive experience with a female returnee incarcerated with her child in Lower Saxony.⁸⁹ In Germany children can stay in prison with their mothers up to age six (in some states up to age three) and once reaching that age, would have to be removed before their mother's release, which must be avoided.⁹⁰ Prisons also lack adequate pedagogical support, childcare (during the many appointments like court sessions), or face challenges upholding security measures while visiting a paediatrician. However, children are considered a crucial factor for their mother's successful rehabilitation and deradicalisation, for example whether she can focus on topics beyond her children's wellbeing or whether she understands that she cannot see her child due to her own decisions.

^v Only one case of a pregnancy in prison and one of a mother incarcerated with her child were reported.

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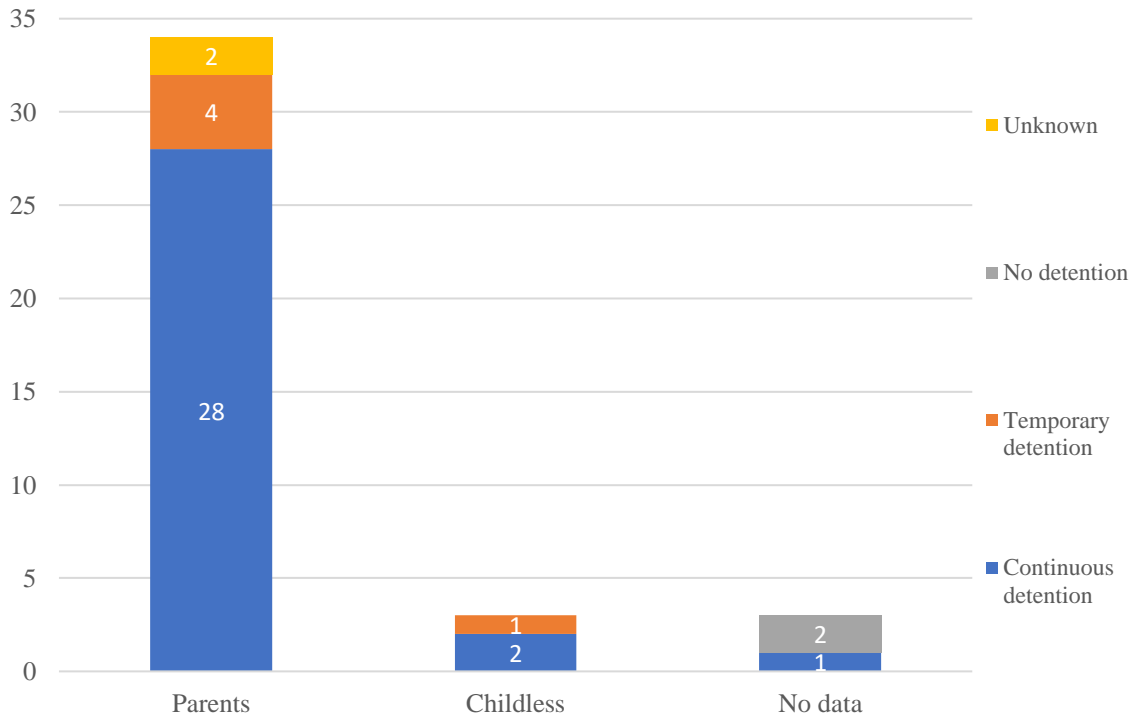


Figure 4.8: Female VEOs and parental status during pre-trial detention in Germany (n=40; as of 15 July 2023)

Another key concern is false compliance. While actors largely agreed that false compliance did play a role, no security-relevant incident involving a female returnee was reported. Several interviewees stressed that the issue should be understood differently: “Nobody comes and says, ‘I want to disengage.’ (...) We always start with a person who deceives”.⁹¹ Some interviewees reported that they had the impression that some women had only agreed to counselling to improve their chances of getting early release; in other cases, the monitoring of the women’s actual behaviour revealed that they were not as disengaged as they made prison staff believe. In the long term however, it was difficult to keep pretending and counsellors were usually able to detect relevant patterns.⁹² Also, it was more normal for a disengaging client to continue moving in extremist social circles to “detach herself from one part of her identity” rather than directly wanting to move on without ambivalence.⁹³ Several interviewees agreed that most important was that some sort of communication between the client and the counsellor continued so as to at least keep a contact until the client was ready to engage with the counselling again.⁹⁴

Germany	No Criminal Record ⁹⁵	Criminal Conviction (Violent)	Criminal Conviction (Non-Violent)	Terrorism Conviction (Violent)	Terrorism Conviction (Non-Violent)	No Information Available
n=40	28	0	2	0	0	10

Figure 4.9: Criminal record of female VEOs prosecuted in Germany (n=40; as of 15 July 2023)

Finally, female VEOs had usually not been involved in criminal activity. At least 70 percent of the women in the sample had no criminal record at all, and only two women had been convicted for a non-violent crime (Figure 4.9). This might explain what some interviewees described as female VEOs and especially female returnees not having the same “criminal energy” of regular detainees or behaving inconspicuously in prison.⁹⁶ Women’s portrayed disengagement during trials was often considered with caution and more credible development was expected during the serving of their prison sentences.⁹⁷

Rehabilitation of Female VEOs in Prison

German prisons have similar rehabilitation services and VEOs usually have access to all regular services. Usually, rehabilitation provisions include social and psychological services (including individual and group therapy measures), health, competence assessment, and measures for education or work, sports, substance abuse and debt counselling, pastoral care, social competence and anti-violence training, mother-child programs, family mediation as well as release preparation and transition management. These components are provided by internal or external staff from (mostly) governmental actors. In addition, each state and prison can have key areas and individual services. For example, Berlin prides itself in having a strong social service.⁹⁸ While the social service is organised differently in each *Bundesland*, they all provide socio-educational work in prison, working with the inmates to identify causes of their delinquency and current situation, develop potential solutions as well as help with implementing them. In Hamburg, female VEOs are usually referred to delinquency processing and during regular detention, women have an obligation to work or follow an educational qualification measure.⁹⁹ A key component for rehabilitation of female returnees is psychological counselling. Interviewees were confident of the existing services offered: prisons either had in-house (trauma-specialised) psychologists or had easy access to external psychotherapists, and two Bavarian prisons had for example specific units for high-risk mental health cases. However, the suicide of Valdete M. in May 2021, who had been in pre-trial detention in Bavaria for presumed terrorism financing, highlights existing challenges with mental health issues.¹⁰⁰

Exit Work

In addition to regular rehabilitation services, VEOs have access to disengagement and deradicalisation counselling (also referred to as exit work or tertiary prevention). Exit work is provided by external governmental or non-governmental organisations, addressing VEOs’ specific needs and challenges. The main objective is to support the process of distancing from violence-oriented extremist actors and ideologies. Practically, exit counsellors focus on helping VEOs “lead a life free of crime and norm-conforming behaviour after release,”¹⁰¹ and prevent support by extremist actors. Either the prison staff refers VEOs to relevant exit offers, counsellors contact potential clients, or individuals reach out themselves, for example following a friend’s recommendation. Some organisations require an initial motivation to be present for an individual to disengage in order to work with them, while others actively reach out to potential clients to spark first doubts. In some states, exit counsellors can offer an exploratory talk to individual inmates during pre-trial detention, but most start actual counselling during regular detention and continue after release. Beyond potentially radicalised individuals, exit counsellors also support or train family members, staff from juvenile justice

services, probation service, courts, and state prosecutors. In prison, exit work usually include:¹⁰²

- individual counselling;
- group work;
- training courses or coaching for prison staff, probation officers, and social services; and
- multiplier qualifications (intensive training for selected staff).

In Germany, the prevention of Islamist extremism, including exit work, has benefited from decades of experience with right and left-wing extremism even before the Federal government adopted its strategy on extremism prevention and democracy promotion in 2016. On a federal level, the main actors are the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) and Federal Ministry of the Interior and Community (BMI) and its subordinate Federal Office for Migration and Refugees (BAMF). Since 2012, the BAMF counselling centre “Radicalisation” has been working with a network of civil society and governmental actors in various *Bundesländer*, providing exit counselling for potentially radicalised individuals and their social environment (Figure 4.10). In 2015, the BMFSFJ initiated its cross-phenomenon programme *Demokratie leben!* (Living Democracy!).¹⁰³ Funds have increased from €40.5 million in 2015 to €182 million in 2023 and in 2018, the programme area “Prevention and Deradicalisation in Prisons and Probation Service” was added, which funded one innovative model project in each German state.¹⁰⁴ Approaches developed in model projects can later be implemented by the respective state agencies. Since 2017, the government’s National Prevention Programme against Islamist Extremism (NPP) has been provided additional funding, including for evaluation and research.¹⁰⁵ In addition, the German *Bundesländer* have started developing concepts against Islamist extremism between 2013 and 2016. The growing number of relevant actors and potential clients have pushed the most affected states to establish competence centres, networks (especially between security agencies and civil society), and programmes.¹⁰⁶ Exit work continues to be organised differently in each state and is often qualified as a “patch work”, as the following (non-exhaustive) overview demonstrates:

- In Baden-Wuerttemberg, the Competence Centre against Extremism KONEX offers exit counselling in cooperation with various civil society and governmental actors.¹⁰⁷
- In Bavaria, the Violence Prevention Network (VPN) is a civil society organisation offering counselling in regular detention via the model project DERAD in cooperation with the LKA’s Competence Centre.¹⁰⁸
- In Berlin, the Senate Department for Justice and Consumer Protection set up the model project JUST X with VPN and the Denkzeit-Society for the prison context.¹⁰⁹
- In Hesse, the State Ministry of Justice (specifically the Network for Deradicalisation in the penitentiary, NeDiS) and VPN set up the model project KogEX, offering workshops for youth offenders (e.g. on gender, democracy and human rights, or extremism), training for prison and probation staff (e.g. on radicalisation processes, intercultural sensitivity) and individual counselling.¹¹⁰
- In prisons in Hamburg and Bremen, the civil society organisation Legato provides systemic exit counselling, establishing first contacts during pre-trial detention in cooperation with the senate for justice (Hamburg) and interior (Bremen).¹¹¹
- In North Rhine Westphalia, exit counselling inside and outside of prison is provided by the Exit Programme Islamism (API), affiliated to the domestic intelligence service and the project Grenzgänger of the association IFAK.¹¹²

- In Lower Saxony, the LKA's Competence Forum for the Prevention of Islamism (KIP NI) coordinates a forum for actors in exit work, bringing together the programme Aktion Neustart (affiliated to the domestic intelligence service, responsible for pre-trial detention and after release), VPN (counselling during regular detention via the programme IS-LEX), and the civil society organisation beRaten (focusing on family counselling).¹¹³

As mentioned, to facilitate the exchange among these different actors, the BAMF's counselling centre "Radicalisation" serves as the federal coordination unit to bring together nongovernmental and governmental actors involved in exit work in the context of Islamist extremism in the German *Bundesländer*. Figure 4.10 gives an overview of these civil society exit counselling centres.

While most exit counselling centres only work in one state, some are active in several states. For example, VPN is active in in Baden-Wuerttemberg, Bavaria, Berlin, Hesse, and Lower Saxony. The largest actor in exit counselling, VPN was for example tasked by the BMFSFJ to develop structural measures in the penitentiary system and probation. They provide emotional, pragmatic, ideological support, and delinquency processing in duos (in either gender combination).^{vi} They offer biography work, genograms, a certified anti-violence and competence training (AKT), and open discussion rounds. VPN also developed the systemic-pedagogical tool "Social Diagnostic" to assess clients' needs, including regarding ideology.¹¹⁴ The civil society organisation Grüner Vogel can technically provide counselling in all states, for example individual counselling on how to cover trial and repatriation costs, systematic processing of the trial and the detention experience itself (focusing on the time before departure during pre-trial detention and on the motivation the leave during regular detention), and the role of religion as well as future perspectives.¹¹⁵ Finally, the network NEXUS has been providing specialised psychotherapeutic and psychiatric counselling for exit work in the prison and probation sector in Berlin and on a federal level.¹¹⁶

Participation in rehabilitation services during detention is usually voluntary but exit counselling in particular can be mandatory by court order. Several actors stressed that clients were aware that non-participation might negatively impact early release decisions, since a refusal to engage with rehabilitation and exit offers could indicate a lack of willingness to process their crimes. Several interviewees reported that only few female returnees declined all offers to counselling (whether on exit or in general) and that they usually continued to participate in exit counselling after release.¹¹⁷ However, female returnees were reportedly often eager to cooperate, and some could reportedly even feel overwhelmed by the many services offered. One exit counsellor stressed that counselling could be discontinued if counsellors sensed that a client did not really want to change.¹¹⁸

Rehabilitation measures, including exit work, are available to male and female VEOs alike. Some practitioners argue that needs are addressed individually, for example exit counselling automatically addressing gender as one of many topics. Others report that, rather stereotypically, male offenders often enjoy offers involving sports or handicraft, whereas some female offenders organise tea evenings. Some states have specific project for women. In Berlin, for example, female probation officers support female offenders with their children and dependency in private relationships.¹¹⁹ In Hamburg, the ZAFTA model in prison focuses on specific needs of female offenders.

^{vi} Male returnees or prominent, conspicuous clients are usually not referred to group measures since they popularity can lead to positive or negative reactions of other inmates.

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Figure 4.10: The BAMF-Network of Exit Counselling (Source: DGAP, based on information from BAMF Research Centre 2021)

In addition, several states started training specialist staff, often with the help of exit counselling centres. For example, since 2016, North Rhine Westphalia has been training integration officers, prevention officers as well as extremism officers and all three groups have been systematically prepared for female returnees since 2017.¹²⁰ A specialist unit has trained 3,500 prison staff on topics around Islam and radicalisation. In Lower Saxony, VPN started training “Islamism officers” in 2016.¹²¹ After one year of extra training, such specialised prison staff act as first points of contact on questions around Islamist extremism, only involving VPN if necessary. At least two such officers who specialised in Islamism exist in eleven key prisons and three additional officers at the Outpatient Justice Social Service (AJSD, responsible for probation, guidance supervision, and court service). There is no data available on how many female VEOs have used rehabilitation services in prison in Germany. According to the BMI, as of 2021, “at least a high double-digit number of returnees [had been] participating in derad[icalisation] measures.”¹²² In general, interviewees reported that female returnees have been accepting existing offers, including exit work, rather well.

Challenges

The rehabilitation of female VEOs poses specific challenges. For example, women’s traditional roles with ISIS made it hard for some returnees to understand their terrorism conviction: “I only cooked, had babies, was sitting the whole day in a *madafa* [a women’s guest house] and then married the next one.”¹²³ In court, many argue that they had little say in their husband’s decision, for example regarding enslaved Yazidis. Staff also found it difficult to explain to some women why they had only been arrested or criminally investigated sometime after their return.¹²⁴ At the same time, female returnees were considered to be more frequently disillusioned from their experiences abroad, unlike women who had not travelled. For some female returnees, religion reportedly played an important emotional role, but many were at first insecure regarding religious practices, for example listening to music.¹²⁵ Some found it “difficult to find a contact to their religion without it being interpreted negatively”.¹²⁶ Non-Muslim pastoral care was well accepted in prison – potentially also due to the ensured confidentiality and since, according to one interviewee, many female returnees were not highly ideological.¹²⁷

Mental health issues could also present serious challenges for female VEOs. Several actors stressed that differences between female returnees and other female VEOs included the experience of war, violence, flight, and stay in the camps.¹²⁸ Psychological services thus tended to be more frequently required with extremist detainees, including returnees. Some VEOs were reluctant to even speak to a prison psychologist out of fear that security-relevant information would be passed on: they would then lose the “sovereignty over the interpretation” of their statements, for example leading to misinterpretations in their disadvantage.¹²⁹ Some women did not accept psychological counselling at all, others started therapy only once they felt more secure, while some looked for psychotherapy after release, especially regarding trauma experiences, and still others needed years before agreeing to counselling at all.¹³⁰ Additionally, female returnees often needed to start addressing problematic issues in their lives from the time before their departure to join ISIS. However, this was reportedly not a big difference to other female detainees, since most had a difficult life trajectory and were often victims of some form of physical and sexual violence. The separation from their children was also usually a traumatic event – especially due to the symbiotic relationship between mother and child developed in the camps – and due to security conditions in the prisons, contact was difficult. Practitioners found that a meeting with family members could be helpful during pre-trial detention but happened with a glass screen between them and a police officer present. After conviction, women were less under pressure to avoid self-incrimination but often, family conflicts surfaced.

Ideally, exit counselling is provided by the same actor before, during, and after detention but getting access can be a challenge. In some cases, one actor had started counselling before the individual’s arrest but was not granted access during detention, because the prison cooperated with another actor.¹³¹ In addition, exit counsellors can be obliged to testify against their clients in court, potentially damaging established trust.¹³²

Reintegration of Female VEOs

The issue of recently released VEOs has received increased attention in the past years. For example, in October 2020, a young Syrian – considered by security agencies as an Islamist threat and recently released from prison – attacked a homosexual couple in Dresden, killing one and seriously wounding another person.¹³³ In addition, most female VEOs receive only relatively short prison sentences, suspended sentences or get released on probation; some

returnees are still under investigation. Their reintegration is hence considered a major challenge for German actors in the coming years.

Monitoring and Risk Assessment

VEOs can be subject to administrative measures by security agencies before, during, and after a prison sentence, including observation, preventive talks, and reporting obligations.¹³⁴ Additional measures for released offenders include the probation service (section 56 StGB). A court-ordered social worker – the probation officer – ensures that offenders released on probation comply with court-ordered requirements such as contact bans or exit counselling as well as help them lead a crime-free life in coordination with other actors. For example, when a female returnee was surprisingly released on probation and returned to her small city of origin, it was the probation officer who organised the case conference with all relevant actors to discuss necessary measures.¹³⁵ Probation support can continue for at least three years. In addition, offenders with a prison sentence of at least two years will be subject to guidance supervision, a post-release measure also provided by probation officers (section 68 StGB). In Bavaria, Hesse, Mecklenburg-Western Pomerania and Baden-Wuerttemberg, court-ordered measures can include an electronic ankle bracelet, which helps monitor if offenders violate court-ordered conditions.¹³⁶ Overall, addressing extremism during probation has not received the same attention as other areas of criminal justice.¹³⁷

In addition to probation service, security services can monitor VEOs and state police can categorise a person as a *Gefährder* (dangerous person) if they have reasons to believe that he or she “will commit politically motivated crimes of considerable significance.”¹³⁸ In February 2023, the BKA counted 505 Islamist *Gefährder* (without differentiating according to gender).¹³⁹ The security risk emanating from *Gefährder* and other relevant individuals can be assessed with the tool Radar-iTE to prioritise measures.¹⁴⁰ Some states have developed their own processes. For example, Bavarian state police have been developing an interdisciplinary assessment procedure based on the analysis of behaviour in order to reach an in-depth-understanding of the case and identify crucial risk and protective factors as well as scenarios for future behaviour, including situational factors.¹⁴¹ In security agencies in general, risk assessments are carried out by an interdisciplinary team, also including psychologists, those who have studied religious studies (Islam) and political scientists, and social workers. Actors admitted that most risk assessment tools have originally been developed for men and much less practical and theoretical knowledge existed when assessing women. Some actors are actively adapting their methods, for example using new data on women,¹⁴² or researching (de)radicalisation processes of women.¹⁴³ There are also efforts to make VERA-2R more gender-sensitive.¹⁴⁴ Others stressed that assessment processes were already very individualised and needed no adaptation.¹⁴⁵

On a federal level, a working group “Risk Management” at the Joint Counter Terrorism Centre (GTAZ) enables exchange between federal and state actors from justice and security regarding *Gefährder* and relevant individuals before their release.¹⁴⁶ A working group “Deradicalisation” organises information exchange on VEOs and returnees in general.

Since 2019, states can also apply for federal funding to recruit “Returnee Coordinators”. Up to the end of 2023, the BAMF funded returnee coordinators in Bavaria, Berlin, Hamburg, Hesse, and North Rhine Westphalia, while the coordinators in Bremen and Lower Saxony are already state-funded.¹⁴⁷ At least one returnee coordinator per state is employed at the LKA or state

interior ministry and responsible for preparing relevant local actors.¹⁴⁸ They organise case conferences to coordinate measures for – usually repatriated – returnees, bringing together security agencies (police, domestic intelligence service), social welfare agencies (Youth Welfare Service, school, kindergarten), exit counselling centres, psychotherapeutic experts, and sometimes prison and probation services. While the coordinators' approach related to returnees can differ, for example whether to inform the kindergarten about a returned child's background, several practitioners advocated for “as little intervention as possible” if the children were stable.¹⁴⁹ One exit worker found it crucial to respect the clients' preference and argued that informing the community would continue a victim's narrative, asking “would we also inform the school if a father was a former drug dealer?”¹⁵⁰

Social Environment

In addition to probation service, released VEOs have access to exit counselling, either with the same actors as in prison or a different actor. Counsellors usually aim to continue supporting clients after release, for example to find a job. In the reintegration of VEOs, the social environment plays a crucial role. If there is contact, the family can be an important resource. Grüner Vogel for example has often established contact with a woman's family before her return and in several cases, the grandparents get custody of returned children. It is also possible that the family poses a challenge, for example if the whole family had travelled abroad, if they reject their daughter for having taken their grandchildren to Syria, or if they do not acknowledge the traumatisation of a returned child. Especially if (some) family members do not want to address conflicts, family therapy or mediation is advised. Contentious issues also include custody of VEOs' children during and after prison. The women often lacked positive educational experiences in their own life, which impacted their own as well as their parent's approach to returned children. The civil society exit counselling centre Legato for example has a separate counselling team for relatives to avoid “becoming information transmitters and getting into conflict lines”.¹⁵¹ Most women return to live with their family, who often support them with, for example, childcare. Having grown apart, this situation can lead to conflicts and most women decide to move to their own flat nearby, often leading to a reduction of tensions.¹⁵²

The role of religious communities and authorities after release was considered less important. Exit counsellors did not specifically cooperate with mosque communities but found that online groups (e.g. Telegram) could provide alternative support.¹⁵³

Interviewees stressed that it was difficult to evaluate reintegration, partly because only few women have been released from prison so far. Other factors that seemed to positively influence their reintegration was a good social reception (for example parents providing stabilisation and processing conflicts), learning adequate coping strategies, developing an identity beyond religion, disillusionment with ISIS, and the experience of self-efficacy.

Regarding a potential risk of female returnees after return, one interviewee pointed out the “high level of uncertainty among the security authorities”.¹⁵⁴ The actual risk depended on their original motivation to travel, and some argued that a higher risk emanated from those who did not travel. A longer affiliation with the Islamist community before their departure was also considered a risk factor. VEOs also faced more difficulties if they still had a very strict, black-and-white worldview in combination with psychological issues, especially as some did not accept counselling during detention. Other risk factors included the financial consequences of a trial, conviction, and repatriation as well as strict obligations after release. Several

interviewees reported that many women (at first) rejected the verdict, expressed lack of trust in the rule of law, and were demotivated when their efforts to change were not (enough) acknowledged.¹⁵⁵

A key concern of practitioners was also potential stigmatisation if the women's background was known, for example among neighbours or due to media reporting. Several actors agreed that women tended to be more stigmatised than men. In general, female offenders tended to face more suspicion and scrutiny. In addition, as one actor argued, the actual role of women within ISIS and their influence on their children was much less clear than the violent role of men. Hence, women also faced additional stress due to youth welfare issues. As one interviewee mentioned, there was much less focus on potential child endangerment if only the father was incarcerated. One interviewee also reported that while female returnees tended to react more sensitively to (perceived) stigmatisation, men showed more indifference or aggression.¹⁵⁶ However, other actors did not see much gendered difference, but individual coping strategies. Female returnees often removed their headscarf and blended into the general population. Security measures after release, such as reporting obligations, whereabouts checks, preventive talks, and other probation conditions were considered stigmatising for all VEOs; exit counsellors tried to prevent or manage potential stigmatisation in administrative processes. One interviewee stressed that the general population knew much less about VEOs as opposed to murderers or thieves and estimated that, similar to sex offenders, ISIS affiliates could just not be trusted anymore.¹⁵⁷ Finally, several female returnees have been criminally investigated for years, often referred to as a "Damocles' sword hanging over their heads" – a situation which has reportedly also been exploited to put pressure on them and implement security measures.¹⁵⁸

There seems to be a common understanding among actors involved with female VEOs that it will take years to be able to assess the success of their rehabilitation and reintegration, including their lasting exit from violent extremism. However, many were cautiously optimistic in their assessment. For example, no cases of recidivism were reported. While many returnees were still incarcerated, experts were still quite optimistic. Exit counsellors stressed that they kept in touch with a client as long as the counsellor considered it useful and the client expressed the need for support, which could take some years.

Conclusion

The mobilisation of several hundred women traveling to join terrorist organisations such as ISIS had a lasting impact on the prosecution, rehabilitation, and reintegration of female VEOs in Germany. Not only did the growing motivation to prosecute female returnees lead to a new conceptualisation of terrorist membership as including structural support. Germany was also able to position itself as a pioneer in the prosecution of ISIS members for core international crimes, including female returnees. The cases of Safia S., Songül G., and Marcia M. highlight the role that female VEOs play in the planning and perpetrating of low-threshold and sophisticated terrorist attacks (see Case Study from Germany). Based on existing measures for male VEOs, prison management of female VEOs reportedly did not need much structural adaptations. With few exceptions, female VEOs seem to respond rather well to rehabilitation and disengagement offers. At the same time, actors stress new challenges associated with mental health issues, separation from their children, and processing their wrongdoing. Before, during, and after detention, female VEOs can usually count on a well-established network of non-governmental and governmental actors to support them in their rehabilitation, as well as disengagement and deradicalisation. This chapter confirms existing studies that practitioners

“are up to their task professionally, but face some structural challenges,” including a lack of continuous project funding or coordination problems with the justice sector when working with VEOs.¹⁵⁹

As of 2023, a majority of German women in the camps have been repatriated, although some remain detained with children. Many female returnees have received their verdict and are serving their prison sentence or have been released. Ahead lies the challenge of female VEO's lasting disengagement and social reintegration. It should not come as a surprise what is recommended by many researchers and practitioners: invest in easy coordination mechanisms to enable trusted exchange among the different governmental and non-governmental actors, continue developing assessment tools considering specific needs and challenges of female VEOs, and enabling long-term multi-professional, individualised support especially for returnees and their children who bear the consequences of their parents' choices.¹⁶⁰ In addition, the lack of gender-disaggregated data often hinders researchers' ability to produce more in-depth insights.

In the past years, the public perception of women involved in terrorism seem to shimmer between monsters kidnapping and brainwashing their own children and naive jihadi brides who just made a stupid mistake. Six years since the beginning of a more systematic criminal justice response to female returnees, the growing depth of experiences highlight that both actively violent and naive women remain the exception. It will be hence crucial to not only understand how women and girls are recruited into extremist ideology and what roles they actually fulfil, but to also reflect on Europe's social and political system and its own perception of the role of women. In some cases, actors' underestimation of the security risk that female VEOs pose might play in violent extremists' favour, while in other cases, an overestimation can be counterproductive for those honestly seeking to disengage.

Case Studies: Marcia M. and Songül G.

Marcia M. converted to Islam in 2010 and radicalised within prominent Islamist circles in Wolfsburg and Hildesheim, Lower Saxony. In 2015, she and her husband joined ISIS in Syria. In the same year, Songül G. from Bremen – who converted to Islam in 1999 – started watching ISIS propaganda videos. The two women met in an Islamist group chat. At first, Marcia M. helped her new friend with travel preparations to facilitate Songül G.’s departure to ISIS held territory. However, Marcia M. then suddenly told Songül G. to stay in Germany and instead marry one of several ISIS fighters in order to keep them off the radar of authorities while they were expected to carry out terrorist attacks in the near future. This plot did not ultimately succeed, partly because the fighters were unable to reach Germany, and because domestic intelligence services detected the plan.

For her involvement in the plot, the Higher Regional Court in Hamburg convicted Songül G. of support of a foreign terrorist organisation in December 2019. By sentencing her to five years and nine months in prison, the judges even exceeded the prosecutors’ request by three months. According to the court, Songül G. was “not as naïve as [she wants everyone] make believe.”

Meanwhile, Marcia M. stayed in detention centres and camps in Northeast Syria after she had surrendered to Kurdish forces in Syria in October 2017. Five years later, in October 2022, she was repatriated to Germany. As she was standing before the Higher Regional Court in Celle, Marcia M. confessed to almost all charges filed against her, including participating in ideological training, and recruiting women like Songül G. She also admitted her involvement in fabricating wire connections, possibly for explosive belts, as member of the female-only unit Khatiba Nusaybah. Chat transcripts secured by the Federal Criminal Police (BKA) and testimonies of other female returnees served as key evidence in the trial. In August 2023, Marcia M. was convicted for membership in a foreign terrorist organisation and war crimes against property and sentenced to eight years and six months in prison. The court argued that her partial confession was “tactical” and not based on “insight into wrongdoing and remorse.” While Songül G. will soon complete her sentence, Marcia M. withdrew her appeal, making her verdict final. During detention, both women have been in contact with exit counsellors.

Although both women were involved in the same plot of a terrorist attack in Germany, they fulfilled very different roles, not only in relation to the plot but their terrorist activities in general. This illustrates the various degrees of agency that women have within ISIS. Furthermore, both cases show the importance of female networks within the organisation. The development of their relationship from friends to foes demonstrate the importance of these networks in prosecuting the individual members. After all, the bonds between female ISIS members can change – some of them testified against each other and have helped to hold others accountable for the full range of crimes they have committed.

Source: Case 5 St 1/23, Marcia M., Higher Regional Court Celle, 1 September 2023, on file with the author; Case 8 St 2/19, Songül G., Hanseatic Higher Regional Court Hamburg, 16 December 2019, on file with the author. See also trial observation by the author: Sofia Koller, “ISIS Women in Court. Marcia M. – A Tactical Admission?” Counter Extremism Project, September 2023, <https://www.counterextremism.com/blog/isis-women-court-marcia-m-tactical-admission>.

¹ German government, “*IS-Anhänger und deren Kinder im In- und Ausland – Stand: 31. Dezember 2022* [IS supporters and their children at home and abroad as of 31 December 2022],” *Bundestag Drucksache 20/5589*, 2 February 2023. <https://dip.bundestag.de/vorgang/is-anh%C3%A4nger-und-deren-kinder-im-in-und-ausland-stand/295751?f.wahlperiode=20&rows=25&pos=7>.

² At least 25 individuals have left Germany again due to administrative measures (for example deportation) or have voluntarily left to a third country; Federal Ministry of the Interior, Building and Community, “*Leitlinien zum ganzheitlichen Umgang mit Rückkehrerinnen und Rückkehrern* [Guidelines for the holistic handling of returnees],” 10 September, 2019. https://www.innenministerkonferenz.de/IMK/DE/termine/to-beschluesse/2019-12-04_06/anlage-zu-top-9.pdf?__blob=publicationFile&v=4; The number of 129 female returnees is composed of the number of female returnees according to the Federal Ministry of the Interior as reported by Southwest Broadcasting Service (SWR) and Bavarian Broadcasting Service (BR) as of May 2021 (106) as well as the number of repatriated adult women in October 2021, March, October, and November 2022 (23).

³ Sofia Koller and Tanya Mehra, “Repatriation of Europeans from Syria,” *Webinar*, Counter Extremism Project, December 2022. <https://www.counterextremism.com/press/cep-webinar-new-momentum-repatriation-and-prosecution-alleged-european-isis-affiliates>.

⁴ The author wants to thank all interviewee for their time and openness when sharing their experiences.

⁵ Daniel Heinke and Jan Raudszus, “Germany’s Returning Foreign Fighters and What to Do About Them,” in “*Returnees. Who Are They, Why Are They (Not) Coming Back and How Should We Deal with Them?*”, eds. Thomas Renard and Rik Coolsaet (Egmont Institute, February 2018). https://www.egmontinstitute.be/app/uploads/2018/02/egmont.papers.101_online_v1-3.pdf.

⁶ German government, “*Verfolgungsermächtigungen nach § 129b des Strafgesetzbuches* [Prosecution authorizations pursuant to Section 129b of the German Criminal Code],” *Bundestag Drucksache 18/9779*, 27 September 2016. <https://dserver.bundestag.de/btd/18/097/1809779.pdf>.

⁷ Federal Ministry of Justice, “*Gesetz zur Änderung der Verfolgung der Vorbereitung von schweren staatsgefährdenden Gewalttaten* (GVVG-Änderungsgesetz) [Act amending the prosecution of the preparation of serious acts of violence endangering the state (GVVG-Amendment Act)], *Bundesgesetzblatt 2015*, No. 23, 12 June 2015. <https://dip.bundestag.de/vorgang/gesetz-zur-%C3%A4nderung-der-verfolgung-der-vorbereitung-von-schweren-staatsgef%C3%A4hrdenden/65076?f.deskriptor=Financial%20Action%20Task%20Force%20on%20Money%20Laundering&rows=25&pos=14>.

⁸ Expert interview on 26 June 2023.

⁹ Only if he or she disappears during the procedure, the trial can continue; expert interview on 24 April 2023.

¹⁰ State Prosecutor’s Office Munich, “*Bayerische Zentralstelle zur Bekämpfung von Extremismus und Terrorismus* (ZET) [Bavarian Central Unit for Countering Extremism and Terrorism (ZET)],” *Bayerisches Staatsministerium der Justiz* [Bavarian State Ministry of Justice]. https://www.justiz.bayern.de/gerichte-und-behoerden/generalstaatsanwaltschaft/muenchen/spezial_3.php.

¹¹ Expert interview on 26 June 2023.

¹² Sofia Koller, “Prosecution of German Women Returning from Syria and Iraq. Insights and Recommendations for Policymakers and Security Agencies,” CEP Policy Paper, October 2022, p.7. https://www.counterextremism.com/sites/default/files/2022-08/CEP%20Policy%20Paper_Prosecution%20of%20German%20Women%20Returning%20from%20Syria%20and%20Iraq_August%202022_final.pdf.

¹³ Interview with disengagement expert in Bavaria on 9 May 2023.

¹⁴ Expert interview on 15 March 2023.

¹⁵ Case 3 St 1/20, *Omaima A.*, Higher Regional Court of Hamburg, 2 October 2020.

<https://www.eurojust.europa.eu/sites/default/files/assets/national-jurisprudence-case-3st1.20-2020-en.pdf>.

¹⁶ Interview with prosecution experts on 26 June 2023.

¹⁷ Sofia Koller and Alexander Schiele, “Holding Women Accountable. Prosecuting Female Returnees in Germany”, *CTC Sentinel* vol 14(10), December 2021. <https://ctc.westpoint.edu/holding-women-accountable-prosecuting-female-returnees-in-germany/>.

¹⁸ Koller, “Prosecution of German Women Returning from Syria and Iraq. Insights and Recommendations for Policymakers and Security Agencies,” p.8.

¹⁹ Interview with prosecution experts on 26 June 2023.

²⁰ Interview with Yegor Beitmann on May 25, 2023; Björn Stritzel (dir.) “Die ISIS-Braut,” *Documentary*, Bild, 2021.

- ²¹ Statement of the Federal Republic of Germany to the United Nations General Assembly, on the scope and application of the principle of universal jurisdiction, Sixth Committee – Agenda item 85, 12 October 2022. https://www.un.org/en/ga/sixth/77/pdfs/statements/universal_jurisdiction/12mtg_germany.pdf.
- ²² Ibid.
- ²³ In comparison, the German government reported that 107 male and female returnees have been convicted as of December 2022; German government, “*IS-Anhänger und deren Kinder im In- und Ausland– Stand: 31. Dezember 2022* [IS supporters and their children at home and abroad as of 31 December 2022]”.
- ²⁴ Case no: 2 KLS 111 Js 139461/14, *Andrea B.*, Higher Regional Court Munich, Judgment, 25 February 2015.
- ²⁵ Case 4 StE 1/16, *Safia S.*, Higher Regional Court Celle, Judgment, 26 January 2017.
- ²⁶ Case 6-2 StE 12/21, *Denise S.*, Higher Regional Court Stuttgart, Judgment, 8 February 2023. https://oberlandesgericht-stuttgart.justiz-bw.de/pb/Lde/Startseite/Medien/6_+Strafsenat_+Zwei+nach+islamischem+Ritus+verheiratete+Angeklagte+u_a_+wegen+Mit-gliedschaft+im+Islamischen+Staat+_IS_+bzw_+wegen+Unterstuetzung+des+IS+zu+Freiheitsstrafen+verurteilt/?LISTPAGE=8975136.
- ²⁷ Case 6-2 StE 12/21, *Denise S.*, Higher Regional Court Dusseldorf, Judgment, July 2023.
- ²⁸ *Abendzeitung München: Amtsgericht München: Geldzahlung an Islamischen Staat - Frau verurteilt* [Local Court Munich: Money paid to Islamic State - woman sentenced], “18 June, 2018, available at <https://www.abendzeitung-muenchen.de/muenchen/amtsgericht-muenchen-geldzahlung-an-islamischen-staat-frau-verurteilt-art-446223>.
- ²⁹ Koller, “Prosecution of German Women Returning from Syria and Iraq. Insights and Recommendations for Policymakers and Security Agencies,” p.17.
- ³⁰ Expert interview on 24 April 2023.
- ³¹ This figure is based on a dataset which is including cases up to 15 July 2023. Not included are three recent cases of female returnees who received the highest prison sentences so far: the sentences of Jennifer W. (14 years, pending), Nadine K. (nine years, three months, pending), and Marcia M. (eight years and six months, final verdict) would hence increase the average sentence significantly.
- ³² “Particular gravity of guilt” usually refers to Section 57a StGB, which mandates that the remainder of a life sentence can be suspended on probation under certain conditions, including that “the particular gravity of the convicted person's guilt does not require further enforcement”.
- ³³ Interview with Gabor Subai on 25 May 2023.
- ³⁴ Expert interview on 24 April 2023.
- ³⁵ Expert interview on 24 April 2023.
- ³⁶ For an analysis of gendered differences in prosecution see Sofia Koller, “Gendered Differences in the Prosecution of Daesh Returnees in Germany,” in Hodwitz, Omi, ed., “Gender-Disaggregated Data. Regional Analyses of Criminal Justice Outcomes in Terrorism Prosecutions,” NATO Centre of Excellence Defence Against terrorism, December 2022, p.27-39. <https://www.coedat.nato.int/publication/researches/16-GenderDisaggregatedData.pdf>.
- ³⁷ Expert interview on 26 June 2023.
- ³⁸ Interview with Gabor Subai and Yegor Beitmann on 25 May 2023.
- ³⁹ Expert interview on 24 April 2023.
- ⁴⁰ German Parliament, “*Deutsche IS-Kämpfer können künftig Staatsangehörigkeit verlieren* [German IS Fighters could lose citizenship in the future],” Inneres, June 2019. <https://www.bundestag.de/dokumente/textarchiv/2019/kw26-de-staatsangehoerigkeitsgesetz-646338>.
- ⁴¹ See for example German government, “*Umgang mit islamistischen Gefährdern und relevanten Personen während und nach ihrer Haft* [Handling of Islamist dangerous persons and relevant individuals during and after prison],” *Bundestag Drucksache* 20/3612, 22 September 2022. <https://dip.bundestag.de/drucksache/auf-die-kleine-anfrage-drucksache-20-3332-umgang-mit-islamistischen-gef%C3%A4hrdern/263174>.
- ⁴² Expert interview on June 26, 2023.
- ⁴³ Interview with Gabor Subai on 25 May 2023.
- ⁴⁴ Christian Ritscher, “*Aktuelle Entwicklungen in der Strafverfolgung des Generalbundesanwalts auf dem Gebiet des Völkerstrafrechts* [Current developments in the prosecution of the Federal Prosecutor’s Office in the field of international criminal law],” *Zeitschrift für Internationale Strafrechtsdogmatik (ZIS)*, 13, (20 December 2018), p. 544.
- ⁴⁵ Interview with prosecution expert on 24 April 2023.
- ⁴⁶ Expert interview on 26 June 2023.
- ⁴⁷ Güley Bor, “Yazidi Survivors in Germany and Iraq’s Reparation Programme: “I want for us to have a share in Iraq,” International Organisation for Migration (IOM), 2021.

https://germany.iom.int/sites/g/files/tmzbd1806/files/documents/iom_yazidi-survivors-in-germany-and-iraq-reparations-programme.pdf.

⁴⁸ Expert interview on 26 June 2023.

⁴⁹ Expert interview on 24 April 2023.

⁵⁰ Interview with Yegor Beitmann on 25 May 2023.

⁵¹ Interview with Gabor Subai on 25 May 2023.

⁵² Interview with Gabor Subai and Yegor Beitmann on 25 May 2023.

⁵³ Expert interview on 24 April 2023.

⁵⁴ Expert interviews on 25 May 2023.

⁵⁵ Expert interview on 24 April 2023.

⁵⁶ Expert interview on 26 June 2023.

⁵⁷ Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, “*Strategie der Bundesregierung zur Extremismusprävention und Demokratieförderung* [Strategy of the Federal Government to prevent extremism and promote democracy],” 14 July, 2016, p. 31. <https://www.bmfsfj.de/bmfsfj/service/publikationen/strategie-der-bundesregierung-zur-extremismuspraevention-und-demokratiefoerderung-109024>.

⁵⁸ Behnam Said, “Extremist Offender Management in Germany,” in *Extremist Offender Management in Europe*, eds. Peter Neumann and Rajan Basra (London: International Centre for the Study of Radicalisation, 2020). <https://icsr.info/wp-content/uploads/2020/07/ICSR-Report-Extremist-Offender-Management-in-Europe-Country-Reports.pdf>.

⁵⁹ See for example German Council on Foreign Relations, “InFoEx, Research on the Tertiary Prevention of Islamist Extremism.” <https://dgap.org/en/research/programs/security-and-defense-program/infoex-research-tertiary-prevention-islamist>.

⁶⁰ The StVollzG remains the basis of the German penitentiary system, but since the federalism reform in 2008, the *Bundesländer* have developed their own state penitentiary laws (*Länderstrafvollzugsgesetze*) who regulate the execution of sentences for adult men and women as well as individuals prosecuted under juvenile criminal law.

⁶¹ Expert interview on 15 March 2023.

⁶² Expert interviews on 17 April 2023.

⁶³ Interview with prosecution expert on 26 June 2023.

⁶⁴ Expert interview on 24 April 2023.

⁶⁵ Expert interviews on 15 March, 17 April, and 12 June 2023.

⁶⁶ See for example interview with Mustafa Doymus, Expert Unit Prevention of Radicalisation, North Rhine Westphalia on 7 June 2023. Also, in some prisons, VEOs are not allowed to have their own prayer rug but are provided such objects on demand.

⁶⁷ Said, “Extremist Offender Management in Germany”.

⁶⁸ Said, “Extremist Offender Management in Germany,” p. 45.

⁶⁹ Interview with André Taubert on 25 April 2023.

⁷⁰ Lucretia Gather, “*Auch im Knast fehlen Fachkräfte* [Prisons also lack skilled workers],” *tagesschau*, 20 January 2023. <https://www.tagesschau.de/inland/innenpolitik/fachkraefte-mangel-justiz-101.html>.

⁷¹ Said, “Extremist Offender Management in Germany,” p. 40.

⁷² Information provided by the Federal Ministry of Justice on 26 June 2023.

⁷³ Said, “Extremist Offender Management in Germany”.

⁷⁴ Interview with Claudia Dantschke on 13 April 2023.

⁷⁵ Based on information provided to the author by twelve German State Ministries of Justice.

⁷⁶ Interviews with rehabilitation experts on 17 April and risk assessment expert on 12 June 2023.

⁷⁷ Interview with Claudia Dantschke on 13 April 2023.

⁷⁸ See for example expert interview on 15 March 2023.

⁷⁹ Expert interview with rehabilitation experts on 15 March and 17 April 2023.

⁸⁰ Expert interview with rehabilitation experts on 17 April 2023.

⁸¹ Interview with Mustafa Doymus, Expert Unit Prevention of Radicalisation, North Rhine Westphalia on 7 June 2023.

⁸² Expert interview on 17 May 2023.

⁸³ Expert interview on 15 March 2023.

⁸⁴ Expert interview on 15 March 2023.

⁸⁵ Sofia Koller, “The Reintegration of Returnees from Syria and Iraq,” *DGAP Report* No. 12, German Council on Foreign Relations (September 2020), p. 13. <https://dgap.org/en/research/publications/reintegration-returnees-syria-and-iraq>.

⁸⁶ Interview with Claudia Dantschke on 13 April 2023.

- ⁸⁷ Interview with rehabilitation expert on 30 March 2023.
- ⁸⁸ Interview with rehabilitation experts on 17 April 2023.
- ⁸⁹ Interview with rehabilitation expert on 30 March 2023.
- ⁹⁰ According to Sections 80 and 142 *Gesetz über den Vollzug der Freiheitsstrafe und der freiheitsentziehenden Maßnahmen der Besserung und Sicherung* (StVollzG), [Law on the execution of custodial sentences and measures of correction and security involving deprivation of liberty], <https://www.gesetze-im-internet.de/stvollzg/>, children can stay with their mother if they are not yet of school age and if the mother has no substance abuse issues; Bettina Wolf, “*Mit Mama im Gefängnis* [In prison with mom],” *StadtLandKind*, 4 July, 2021. <https://www.stadtlandkind.info/mit-mama-im-gefaengnis/>.
- ⁹¹ Interview with André Taubert on 25 April 2023.
- ⁹² Expert interview on 23 May 2023.
- ⁹³ Interview with disengagement expert in Bavaria on 9 May 2023.
- ⁹⁴ For example, interview with Mustafa Doymus on 7 June 2023.
- ⁹⁵ This refers to the women having no criminal record prior to their cases for involvement in ISIS or other terrorist organisations.
- ⁹⁶ Expert interview on 26 May 2023.
- ⁹⁷ Expert interview on 24 April 2023.
- ⁹⁸ Expert interview on 15 March 2023.
- ⁹⁹ Expert interview on 17 April 2023.
- ¹⁰⁰ Joseph Röhmel, “*Suizidprävention in Gefängnissen: ‘Einfach nur verwahrt’* [Suicide prevention in prisons: ‘Simply locked up’]” *Bayerischer Rundfunk*, 15 February, 2023. <https://www.br.de/nachrichten/deutschland-welt/suizidpraevention-in-gefaengnissen-einfach-nur-verwahrt,TVptNV7>.
- ¹⁰¹ Expert interview on 15 March 2023.
- ¹⁰² Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, “*Prävention and Deradikalisierung im Strafvollzug und Bewährungshilfe* [Prevention and deradicalization in the prison system and probation services],” 23 March, 2022. <https://www.bmfsfj.de/bmfsfj/service/publikationen/praevention-und-deradikalisierung-in-strafvollzug-und-bewaehrungshilfe-194462>; Said, “*Extremist Offender Management in Germany*,” p. 47.
- ¹⁰³ Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, “*Zweiter Bericht der Bundesregierung über Arbeit und Wirksamkeit der Bundesprogramme zur Extremismusprävention* [Second report by the Federal Government on the work and effectiveness of federal programs to prevent extremism],” 4 August 2021. <https://www.bmfsfj.de/bmfsfj/service/publikationen/zweiter-bericht-der-bundesregierung-ueber-arbeit-und-wirksamkeit-der-bundesprogramme-zur-extremismuspraevention-184632>.
- ¹⁰⁴ Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, “*Bundesprogramm ‘Demokratie Leben!’ Hintergrundinformation* [Federal Programme ‘Living Democracy!’ Background information],” 19 July 2023. <https://www.bmfsfj.de/bmfsfj/themen/engagement-und-gesellschaft/bundesprogramm-demokratie-leben-73948>.
- ¹⁰⁵ Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, “*Zweiter Bericht der Bundesregierung über Arbeit und Wirksamkeit der Bundesprogramme zur Extremismusprävention*” [Second report by the Federal Government on the work and effectiveness of federal programs to prevent extremism].
- ¹⁰⁶ *Bundeszentrale für politische Bildung* [Federal Agency for Civic Education] (bpb), “*Islamismusprävention in Deutschland. Akteure und Strukturen in Bund und Ländern* [Prevention of Islamism in Germany. Actors and structures at federal and state level],” February 2020. https://www.bpb.de/system/files/dokument_pdf/9658_bpb_Islamismuspraevention_in_D.pdf.
- ¹⁰⁷ bpb, *Ibid.*, p. 21.
- ¹⁰⁸ bpb, *Ibid.*, p. 30.
- ¹⁰⁹ bpb, *Ibid.*, p. 39.
- ¹¹⁰ bpb, *Ibid.*, p. 71.
- ¹¹¹ bpb, *Ibid.*, p. 86.
- ¹¹² bpb, *Ibid.*, p. 93.
- ¹¹³ Expert interview on 30 March 2023.
- ¹¹⁴ Expert interview on 23 May 2023.
- ¹¹⁵ Interview with Claudia Dantschke on 13 April 2023.
- ¹¹⁶ *Charité - Universitätsmedizin Berlin: “NEXUS Beratungsnetzwerk Bund – Psychotherapeutisch-Psychiatrische Fallhilfen und NEXUS Fachstelle Berlin* [NEXUS Federal Advisory Network – Psychotherapeutic-Psychiatric Case Assistance and NEXUS Berlin Office],” *Klinik für Psychiatrie und Psychotherapie*, 2023. <https://psychiatrie->

psychotherapie.charite.de/forschung/nexus_beratungsnetzwerk_bund_psychotherapeutisch_psychiatrische_fallhilfen_und_nexus_fachstelle_berlin/.

¹¹⁷ Expert interview on 26 May 2023.

¹¹⁸ Expert interview on 26 May 2023.

¹¹⁹ Expert interview on 15 March 2023.

¹²⁰ See for example interview with Mustafa Doymus, expert unit prevention of radicalisation, North Rhine Westphalia on 7 June 2023.

¹²¹ Interview with rehabilitation expert on 30 March 2023.

¹²² German government, “*IS-Anhänger und deren Kinder im In- und Ausland– Stand: 31. Dezember 2022* [IS supporters and their children at home and abroad as of 31 December 2022]”.

¹²³ Expert interview on 15 March 2023.

¹²⁴ Expert interview on 26 May 2023.

¹²⁵ Expert interview on 30 March 2023.

¹²⁶ Expert interview on 26 May 2023.

¹²⁷ Expert interview on 26 May 2023.

¹²⁸ Expert interview on 12 June 2023.

¹²⁹ Expert interview on 26 May 2023.

¹³⁰ See for example interviews with Claudia Dantschke on 13 April 2023 and another expert on 26 May 2023.

¹³¹ Tim Röing, “*Ist ein bisschen Deradikalisierung besser als keine? Zur Ausstiegsarbeit mit Rückkehrerinnen und Rückkehrern aus dschihadistischen Gruppen in Deutschland* [Is a little deradicalisation better than none? On disengagement work with returnees from returnees from jihadist groups in Germany],” *BICC Working Paper 1/2021*. <https://www.ssoar.info/ssoar/handle/document/75098>.

¹³² Sofia Koller, “Women and Minors in Tertiary Prevention of Islamist Extremism,” *DGAP Report No. 26*, German Council on Foreign Relations, 26 November, 2021. <https://dgap.org/en/research/publications/women-and-minors-tertiary-prevention-islamist-extremism>.

¹³³ Deutsche Welle: “Dresden Islamist knife attacker jailed for life,” 21 May 2021.

<https://www.dw.com/en/germany-dresden-islamist-knife-attacker-jailed-for-life/a-57604354>.

¹³⁴ Expert interview on 24 April 2023.

¹³⁵ For example, expert interview on 30 March 2023.

¹³⁶ Beck-aktuell, “*Regelungen zur Elektronischen Fußfessel verfassungsgemäß* [Regulations on electronic ankle bracelets are constitutional],” 4 February 2021. <https://rsw.beck.de/aktuell/daily/meldung/detail/bverfgr-regelungen-zur-elektronischen-fussfessel-verfassungsgemaess>.

¹³⁷ Alina Neitzert, and Maurice Döring, with Tim Röing and Marc von Boemcken, “*Haftanstalten als Orte der Radikalisierungsprävention? Herausforderungen und Bedarfe der Präventionsarbeit in Justizvollzugsanstalten Nordrhein-Westfalens* [Prisons as places of radicalisation prevention? Challenges and needs of prevention work in prisons in North Rhine-Westphalia],” *BICC Working Paper 5/2021*. <https://www.ssoar.info/ssoar/handle/document/78074>.

¹³⁸ Bundeskriminalamt, Website, “*Unsere Aufgaben, Deliktbereiche: Politisch motivierte Kriminalität*.” https://www.bka.de/DE/UnsereAufgaben/Deliktbereiche/PMK/pmk_node.html.

¹³⁹ Tagesschau, “*Mehr als 600 Menschen gelten als Gefährder* [More than 600 people are considered dangerous],” 23 February 2023. <https://www.tagesschau.de/inland/bka-gefaehrder-101.html>.

¹⁴⁰ Sofia Koller, “Good Practices in Risk Assessment of Terrorist Offenders,” *DGAP Report No. 3*, German Council on Foreign Relations, 4 February 2021, p.8.

¹⁴¹ Expert interview on 9 May 2023.

¹⁴² Expert interview on 26 May 2023.

¹⁴³ Federal Office for Migration and Refugees, “*Gendersensible Deradikalisierungsarbeit bei Frauen und Mädchen* [Gender-sensitive deradicalisation work with women and girls],” 3 December 2021. https://www.bamf.de/SharedDocs/Anlagen/DE/Forschung/JahresberichtForschungszentrum/jahresbericht-forschungszentrum-2021.pdf?__blob=publicationFile&v=6.

¹⁴⁴ Custodial Institutions Agency, “Improvements,” Dutch Ministry of Justice and Security. <https://www.vera-2r.nl/development/improvements>.

¹⁴⁵ Expert interview on 15 March 2023 and expert interview in Bavaria on 9 May 2023.

¹⁴⁶ German government, “*Umgang mit islamistischen Gefährdern und relevanten Personen während und nach ihrer Haft* [Handling of Islamist dangerous persons and relevant individuals during and after prison]”.

¹⁴⁷ *Kompetenzzentrum für Deradikalisierung und Extremismusprävention im Land Bremen (KODEX)*

[Competence Centre for Deradicalisation and Prevention of Extremism in the State of Bremen]:

“*Rückkehrkoordination* [Returnee Coordination],” Freie Hansestadt Bremen.

<https://www.kodex.bremen.de/projekte/rueckkehrkoordination-12117>.

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- ¹⁴⁸ Koller, “The Reintegration of Returnees from Syria and Iraq,” p. 8.
- ¹⁴⁹ For example, interview with disengagement expert in Bavaria on 9 May 2023.
- ¹⁵⁰ Expert interview on 26 May 2023.
- ¹⁵¹ Interview with André Taubert on 25 April 2023.
- ¹⁵² Interview with Claudia Dantschke on 13 April 2023.
- ¹⁵³ Expert interview on 23 May 2023.
- ¹⁵⁴ Expert interview on 24 April 2023.
- ¹⁵⁵ See for example interviews on 13 April and on 26 May 2023.
- ¹⁵⁶ Expert interview on 30 March 2023.
- ¹⁵⁷ Interview with André Taubert on 25 April 2023.
- ¹⁵⁸ Interview with Gabor Subai on 25 May 2023.
- ¹⁵⁹ Röing, “*Ist ein bisschen Deradikalisierung besser als keine? Zur Ausstiegsarbeit mit Rückkehrerinnen und Rückkehrern aus dschihadistischen Gruppen in Deutschland*”.
- ¹⁶⁰ Lina Hartmann, “*AG Strafvollzug und Bewährungshilfe. Mapping von Maßnahmen der Prävention und Deradikalisierung sowie angrenzender Arbeitsfelder in Strafvollzug, Bewährungshilfe und Maßregelvollzug* [Working Group on Prison and Probation Services. Mapping of prevention and deradicalisation measures and deradicalisation as well as related fields of work in the penal system, probationary services and the penitentiary system],” Violence Prevention Network, 15 June, 2023. <https://ag-strafvollzug-und-bewaehrungshilfe.de/publikationen/ag-strafvollzug-und-bewaehrungshilfe-mapping-von-massnahmen-der-praevention-und-deradikalisierung-sowie-angrenzender-arbeitsfelder-in-strafvollzug-bewaehrungshilfe-und-massregelvollzug/>.

5

The Dutch Approach to Female Violent Extremist Offenders

Tanya Mehra

According to the Dutch Intelligence Service, approximately 300 persons have left the Netherlands for Syria and Iraq to join a terrorist organisation. Most of them have joined the 'Islamic State' (ISIS) while a small number of persons have joined other terrorist groups such as Jabhat al-Nusra.¹ One third of the so-called foreign fighters were women. So far, approximately ten Dutch women have died, 41 have returned, and a few women have returned to a third country.² According to the latest threat assessment of the Dutch Intelligence Service, around twelve Dutch women are still detained in the camps administered by the Autonomous Administration of North and East Syria (AANES) and are keen to leave presumably to the Netherlands.³ Another twelve women are deemed to be in Northeast Syria and the region with a dozen more staying with different terrorist organisations abroad (Figure 5.1).

Of those who travelled to Syria and Iraq, 73.7 percent of the women were childless when they left the Netherlands. Regardless of whether the women travelled to the conflict zones or not, they were all prosecuted for terrorist conduct in relation to ISIS. On average, the women were 23.8 years old at the start of the commission of the crimes.

Returns of women from Syria and Iraq, just like their departures, took place in waves. The first wave of returnees occurred even before ISIS established the so-called caliphate between 2013 to 2014. The second wave of returnees took place after ISIS established the caliphate from early 2015 onwards.⁴ By now, a third wave can be identified, starting after the fall of Baghuz in 2019.

Three methods of return can be identified: voluntarily; extradited; and repatriated. From the dataset, we can see that of the 28 women prosecuted in the Netherlands so far, a majority of nineteen women travelled to the conflict zone. The remaining nine women were either in the Netherlands or in a third state, and five did not attempt to travel at all (Figure 5.2).

Most of the women who have returned voluntarily did so during the first wave, while those that have been extradited predominantly returned during the second wave, and the women who have been actively repatriated returned during the third wave. The Netherlands has so far carried out three active repatriations. The first woman to be repatriated in June 2021 was Ilham B. together with her three children. Five women and their eleven children were repatriated in February 2022 and finally twelve women and their 28 children were repatriated in November 2022. While most of them travelled to Syria or Iraq, five women did not travel nor attempted to travel to Syria or Iraq.

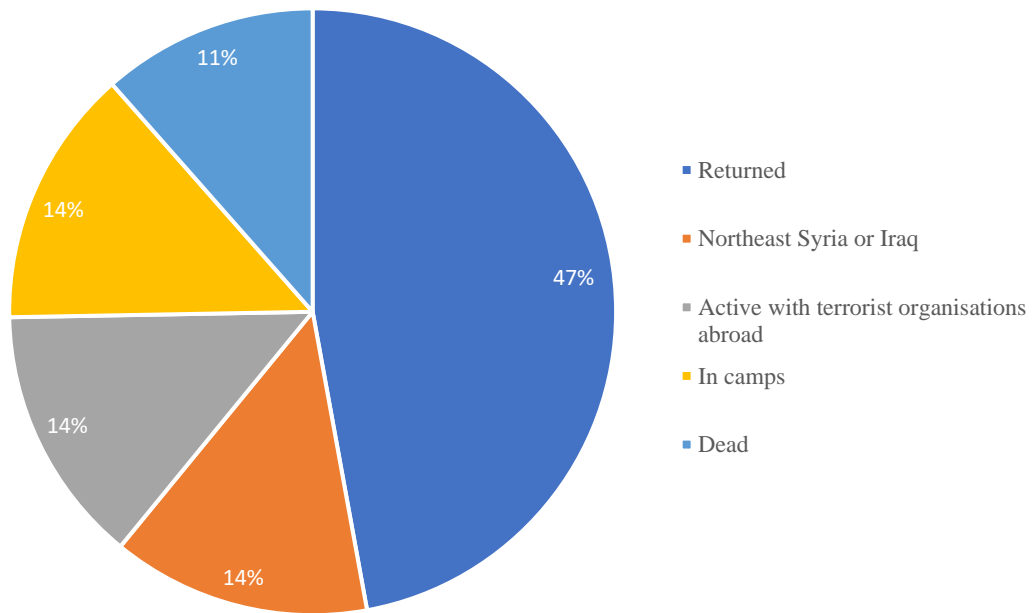


Figure 5.1: Status of the 100 women who left the Netherlands to Syria and Iraq (numbers provided by Dutch intelligence services; as of November 2023)

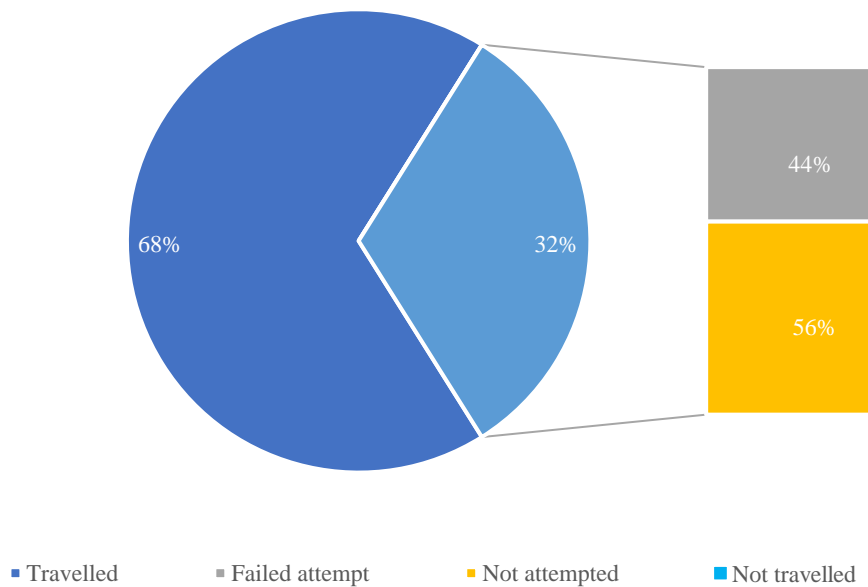


Figure 5.2: Travel arrangements of female VEOs prosecuted in the Netherlands, (n=28; as of 15 July 2023)

There were not many female violent extremist offenders (VEOs) in The Netherlands prior to the rise of the ISIS. Perhaps one of the striking examples is Soumaya S. She was the first woman convicted for terrorist offences in the Netherlands. She was sentenced to three years in prison in 2014 for membership in a terrorist organisation and for possession of firearms. Soumaya S. belonged to the Hofstad group, which was plotting a terrorist attack on several politicians. Interestingly, one of the other members of the Hofstad group, Samir A., who stood trial together with Soumaya S., was convicted for plotting a terrorist attack and was released from prison in 2013 and was convicted again in 2022. This time for funding and helping women to escape from the camps in Northeast Syria.⁵ During her time in detention, Soumaya S. studied political science and later on became an advisor on terrorism and radicalisation for the liberal party, People's Party for Freedom and Democracy (VVD). After parliamentary questions, Soumaya S. stepped down from her function in early 2022 and was expelled from the party in October 2023 for allegedly financially benefiting from her mentor and former party leader Frits Bolkenstein.

One of the first female returnees who was prosecuted in the Netherlands was Laura H. who travelled, together with her husband and two young children, to ISIS-controlled territory in September 2015.ⁱ She made headlines in July 2016 when she surrendered to Kurdish forces near the ISIS-held city of Mosul in northern Iraq. The court ruled that citizenship – being a citizen and living under ISIS – does not constitute membership in a terrorist organisation, but in subsequent cases abandoned this reasoning. Laura H. became one of the best-known female returnees in the Netherlands with a book and a theatre play about her life being released.

This country chapter will provide a descriptive overview of the current state of play in the prosecution, prison management, rehabilitation, and reintegration of female VEOs in the Netherlands. It is based on research and on a dataset that has been collected through open sources. As of 15 July 2023, this dataset consists of 40 cases of female returnees and VEOs that were initiated between 2012 and July 2023. In total, 28 female returnees have stood trial, in six cases appeal is pending, twelve more are under investigation (Figure 5.3). In addition, nineteen in depth semi-structured interviews have been conducted with relevant stakeholders working in the prosecution, prison management, rehabilitation, and reintegration of female returnees and VEOs.

Prosecution

The Dutch policy is that both men and women should ideally be prosecuted in the region where the crimes have been committed unless it would lead to impunity, in which case they would be repatriated and stand trial in a Dutch court.⁶ The vast majority of women who have currently been prosecuted have actually travelled to the conflict zone. In total, nine women have not travelled. Two of them failed to depart from the Netherlands and two failed to travel on to Syria or Iraq from a third country. Another five women had not attempted to travel to the conflict zone at all. Out of the 28 women who have stood trial, only two were prosecuted under juvenile justice laws.

A significant number of women are still being investigated and are awaiting trial. This includes the twelve women who have been repatriated in November 2022. They are deemed to be more committed to ISIS ideology and are charged with more serious offences. This includes Hasna A. who in addition to membership in a terrorist group, has been charged for slavery as a crime

ⁱ In fact, the first female returnee who was prosecuted was Shukri F., she was prosecuted together with her husband, she was acquitted for membership of a terrorist group but convicted for incitement to terrorism.

against humanity, and Krista van T. who is facing charges of pillaging as a war crime. The dataset shows that, other than the twelve women still under investigation, 22 women have received their final verdict, and six have their case pending on appeal (Figure 5.3).

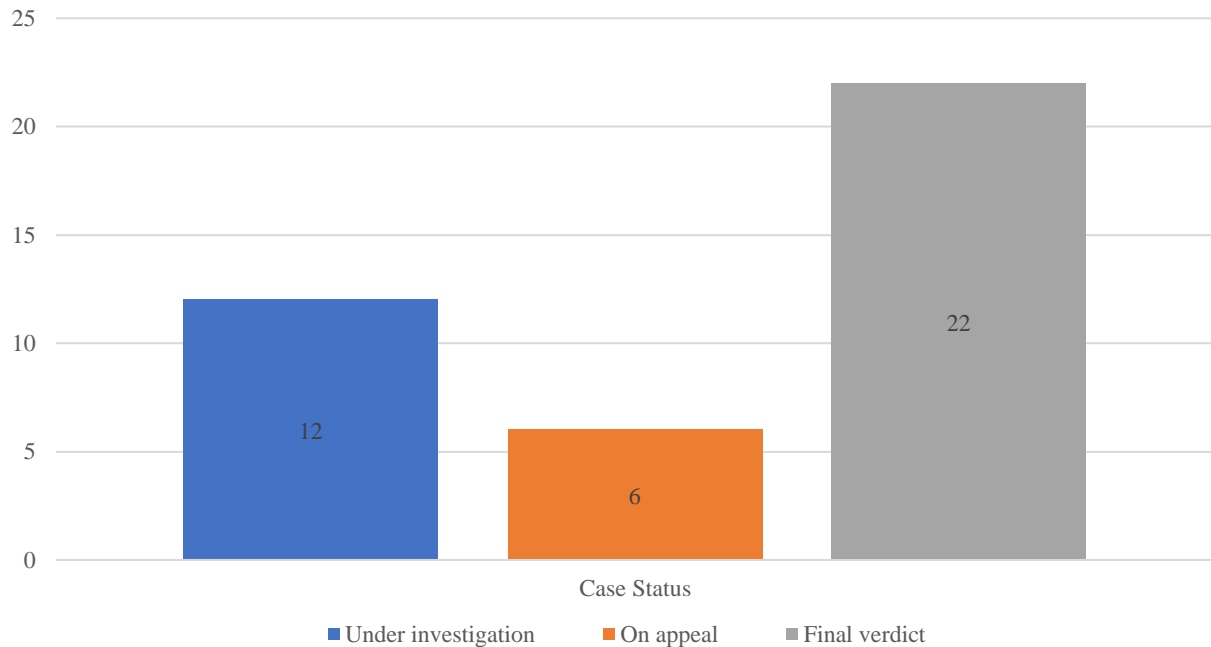


Figure 5.3: Case status of prosecutions of female VEOs in the Netherlands (n=40; as of 15 July 2023)

Prosecutorial Strategy

In the Netherlands, the National Prosecutor's Office is responsible for prosecuting a range of serious offences including terrorism.⁷ After the investigations have been concluded, the prosecutor has the discretion to decide to prosecute or not (article 167 Dutch Criminal Procedure Code). Under the expediency principle the prosecutor may decide not to prosecute if this would not be in public interest.⁸

During the first wave of returnees in 2012/2013, women were not seen as suspects but were mainly heard as witnesses. Over time, the understanding of the conflict and the different roles of men, women, and children in ISIS improved. The publication '*Life with ISIS: the Myth Unravelling*' of the Dutch Intelligence Service (AIVD) contributed to a better understanding amongst relevant Dutch authorities.⁹ Since 2015/2016 the Prosecutor's Office adopted a policy to actively investigate, and where possible, prosecute so-called foreign fighters, including women. This means that a criminal file will be opened for known foreign fighters, including women while they are still abroad.¹⁰

The Dutch Prosecutor's Office charges each returnee for participation in a terrorist organisation (article 140a Dutch Criminal Code) and preparing crimes with a terrorist intent (article 96 Dutch Criminal Code). After the territorial defeat of ISIS, more information about how ISIS operates and about life during the so-called caliphate became available. As of 2021, The Dutch Prosecutor's Office requests a standard sentence of five years imprisonment for returnees and six years for those who were involved in fighting. The reason for requesting higher sentences is based on the relatively longer duration of the defendants' stay in the conflict zone and the

type of activities they have been involved in, such as joining a specific brigade, contributing to propaganda or recruitment activities. Furthermore, as of 2021, women who have deliberately taken their children to Syria or Iraq are also being prosecuted for child neglect (article 255 Dutch Criminal Code).¹¹ Gender is not taken into account in determining which charges should be laid. Over the years, the Dutch Prosecutor's Office has gained experience in prosecuting female returnees and has also relied on expertise from other disciplines.ⁱⁱ

Trials in Absentia

In the Netherlands, like in many other European countries, trials *in absentia* are permitted under certain conditions. If the prosecutor decides to investigate and prosecute a person who is still abroad, the standard procedure is to issue an international arrest warrant against this person. The prosecutor will need to inform the accused of the date and time of the trial. On several occasions, the Prosecutor's Office posted the details of such trials on social media. As the defendant has the right to be present during the trial, the court needs to put the proceedings on hold if the defendant indicates that they want to be present during the trial but are still abroad.

While trials *in absentia* were part of the prosecutorial approach to build a case against a person before they return to the Netherlands, this approach eventually had to be abandoned.¹² Ilham B. who was in Ain Issa camp in Northern Syria at the time, indicated she wanted to be present at her trial in the Netherlands. The court decided to stay the proceedings several times to allow the authorities to bring her to the Netherlands so she could stand trial. In the end, the court concluded that it was unrealistic that the defendant would be brought to the Netherlands to stand trial and was about to terminate the proceedings.¹³ Pursuant to article 29f of the Dutch Criminal Code, this would have meant that it was no longer possible to prosecute Ilham B., even if she were to return to the Netherlands at a later time. To avoid impunity, the Dutch government decided to repatriate Ilham B. so she could stand trial. In June 2021, Ilham B. was repatriated together with her three children. Ilham B. travelled together with her future husband to Turkey, where he received a salary of USD 100 a month from ISIS. The couple lived in a house supplied by ISIS. Not only did her husband have a weapon, Ilham B. also had her own weapons and was active on social media praising the life in the caliphate. Ilham B. was convicted for joining the terrorist groups Jabhat al-Nusra and ISIS and for the preparation of terrorist offences, but only up to the point when she was captured by the Syrian Democratic Forces (SDF). She was sentenced to three and a half years imprisonment of which 12 months were conditional. In addition to her prison sentence, she was given a two-year probation period under seven special conditions.¹⁴ The Prosecutor has appealed the verdict, arguing that Ilham B. was also involved in providing training to 40 women of the Al-Khansaa Brigade, an all-women unit in charge of religious enforcement.

A few months after Ilham B.'s repatriation, in February 2022, another five women and their children were repatriated for the same reasons and then prosecuted. In November 2022 twelve women and 28 children, the biggest group so far, were repatriated. As of 1 December 2023, none of the women have been sentenced.

ⁱⁱ The police also rely on multidisciplinary expertise and works with legal, linguistic, and religious experts. This applies to the Team International Crimes as well as National Police, Countering Terrorism, Extremism and Radicalization.

Offence	Criminal Provision	Number of Indictments	Number of Convictions
Membership in a terrorist organisation	Article 140a Sr.	23	14
Preparation of terrorist offences	Article 96 Sr.	14	14
Incitement to terrorism	Article 131f. Sr.	5	4
Financing of terrorism	Article 421 Sr.	4	2
Recruitment for terrorism	Article 205(3) Sr.	2	0
Providing or receiving terrorist training	Article 134a Sr.	1	1

Figure 5.4: The most commonly applied terrorism charges in cases of female VEOs in the Netherlands (n=28 cases; as of 15 July 2023)

In addition to membership in a terrorist organisation and preparing terrorist offences, the prosecutors have also charged women for several other terrorist offences. As exemplified by the data, other less commonly charged and convicted terrorist offences include incitement to terrorism, recruitment for terrorist purposes, terrorism financing and one case of providing or receiving terrorist training (Figure 5.4). In the vast majority of cases, female returnees and VEOs have not directly been involved in the violent (terrorist) crimes. In some cases, the women had access to weapons, which were kept in the house but were not engaged in combat.

Cumulative Charges

Cumulative charging describes the charging of an individual with terrorist offences and domestic crimes or core international crimes. In the Netherlands female VEOs have been charged with terrorist offences and domestic offences, such as child neglect and violating sanctions laws. Furthermore, prosecutors can cumulatively charge for terrorist offences and core international crimes. The exclusion clause that regulates the applicability of terrorism legislation during an armed conflict is interpreted narrowly in the Netherlands. The exclusion clause is only applicable to armed forces and not to non-state-armed groups. This means that it is not applicable to ISIS and other terrorist organisations. A member of ISIS can therefore be tried for both terrorist offences *and* war crimes.¹⁵ While cumulative charging is possible, the dataset showed that the majority of indictments and convictions – twenty-four and nineteen respectively – filed against female VEOs involved only terrorist offences (Figure 5.5).

In the current dataset, only one woman has been convicted for a terrorist offence, core international crimes, and domestic offences: Yousra L. Most notably, she was convicted for committing a war crime from within the Netherlands. It was also the first case in which the court concluded that ISIS was not only a terrorist organisation but also a criminal organisation with the aim to commit international crimes. The reasoning for this is that ISIS is a criminal organisation with the intent to commit war crimes because it has intentionally violated common article 3 of the Geneva Conventions, in particular by killing persons and committing outrage upon personal dignity of protected persons. Yousra L. was convicted for incitement to war crime of outrage upon personal dignity, membership in a terrorist organisation, terrorism financing, and participation in terrorist training.¹⁶ Yousra L. has appealed the verdict.

Participation in a Terrorist Organisation

Participation in a terrorist organisation is one of the two most common crimes that female returnees have been convicted for. To prove participation/membership in a terrorist organisation, three elements need to be proven:

- the existence of a structural association of two or more persons with some form of continuity;
- the terrorist intent of the organisation; and
- the participation and contribution of the individual to the organisation that has a terrorist objective.

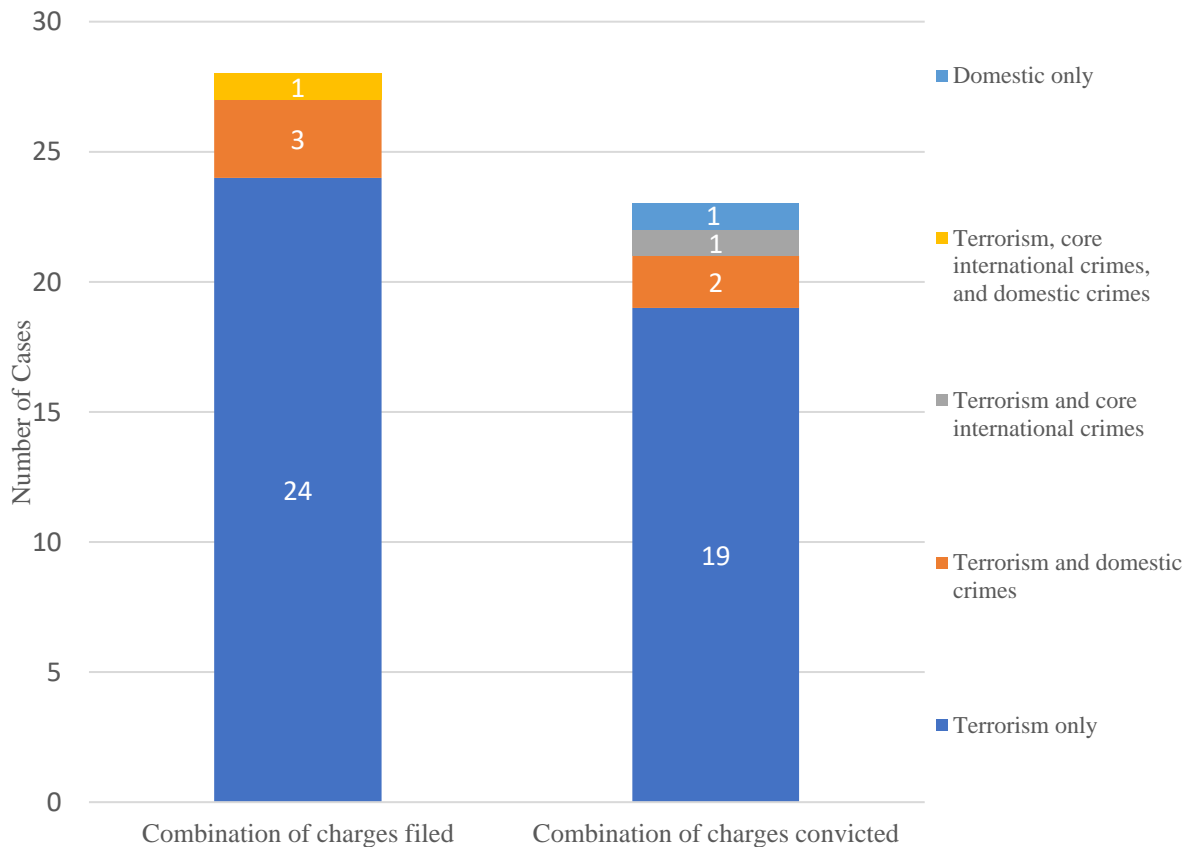


Figure 5.5: (Cumulative) indictments and convictions filed against female VEOs in the Netherlands (n=28; as of 15 July 2023)

Terrorist intent refers to the intent to instil fear among (part of) the population, or to force a country or international organisation to do or refrain from doing something or disrupt vital structures of a country or international organisation.¹⁷ Whether the acts resulted in fear or not is not relevant. It is decisive whether the perpetrator or terrorist organisation had the intention to instil fear. Thus, terrorist intent refers to the intended consequences.

Participation means belonging to the organisation with a terrorist intent and contributing in one or the other way to the aim of the organisation to commit terrorist acts. Participation could be by directly (co-)committing a crime, but also by providing non-criminal acts such as driving or arranging logistics, as long as it supports the terrorist objective of the organisation. To prove participation in a terrorist organisation, it is sufficient to establish that the individual was aware

that the organisation has a terrorist intent.¹⁸ It is not necessary that the individual was aware of any specific crimes the terrorist group intends to commit. Neither is it required to prove that the individual had the intent themselves because this is presumably included in the act of participation.¹⁹ Perhaps with the exception for the early months in 2014 before the establishment of the caliphate, courts considered that it was general knowledge that ISIS was an organisation with a terrorist intent.

In the case against Laura H. the court ruled that merely residing in ISIS territory would be insufficient to be considered as participation in a terrorist group. According to the court, citizenship does not automatically mean participation in a terrorist group.²⁰ This notion was not upheld in subsequent cases.

However, this issue remains a challenge when it comes to prosecuting women for participation in a terrorist group, as it is still often not clear what role women played during their time with ISIS.²¹ Several interview partners also indicated that returnees are very hesitant to share any information about their time under ISIS and what roles they have played. The female returnees are more open in sharing information about the detention conditions in the camps.

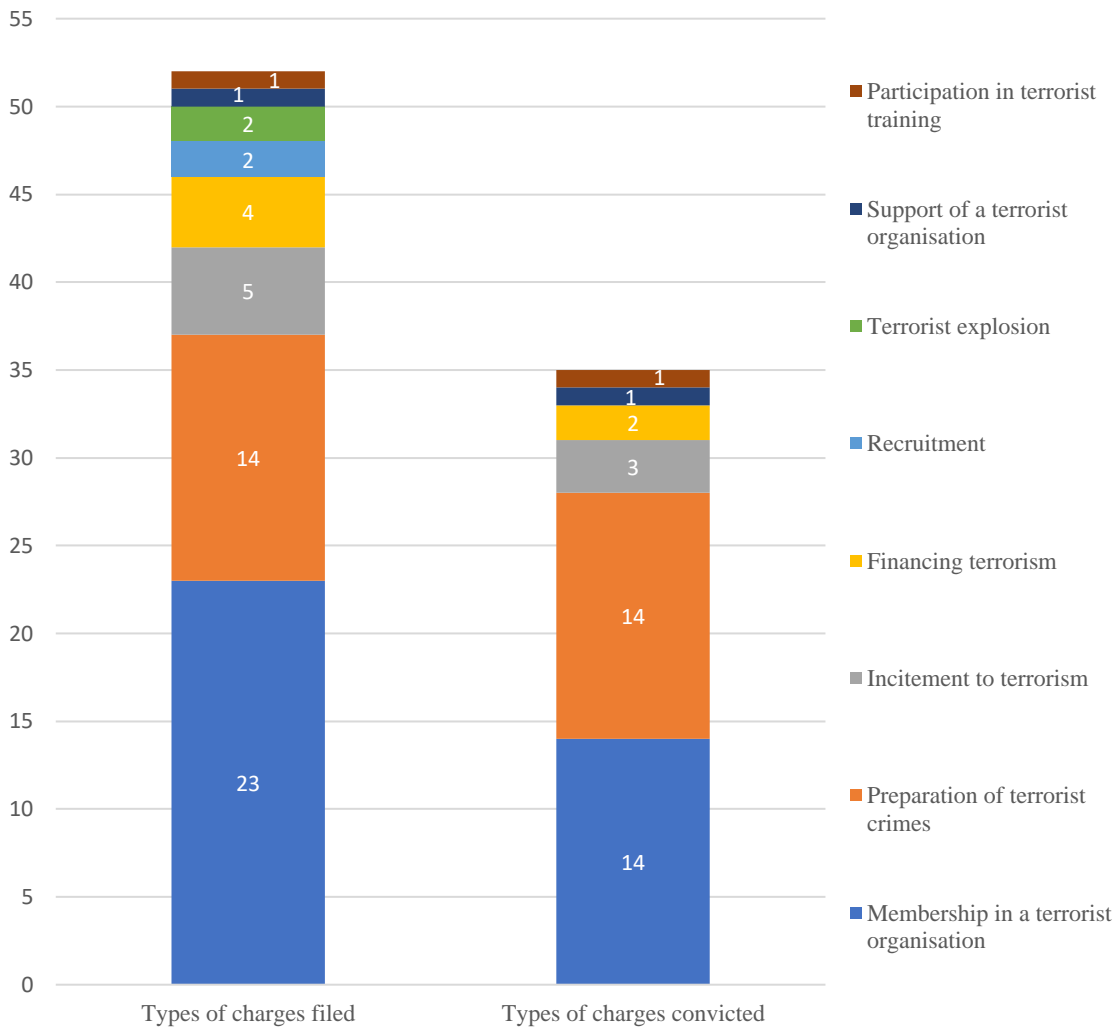


Figure 5.6: Terrorism charges filed and convicted in cases of female VEOs in the Netherlands (n=28; as of 15 July 2023)

When a woman is married to an ISIS fighter and runs the joint household, this is considered to constitute membership in a terrorist organisation. In total, three Dutch women were fully acquitted for participation in a terrorist group, while one case is pending appeal.²² In addition, two women were partially acquitted. This includes the case of Naima S. who travelled with her 15-year-old son to Syria to visit her daughter. According to the court, the mother had no intention to join ISIS, did not run a joint household, and was sick most of the time. She was acquitted for membership in a terrorist organisation but convicted for child neglect.²³ The prosecutor has appealed the verdict.

The women are often charged with ‘familiarising oneself with extremist ideology’ as one of the underlying facts to support the charge of preparation of a terrorist offence. In the cases against five women who have been repatriated, the court ruled there was insufficient proof that they adhered to extremist ideology, and they were consequently acquitted of this charge. While adhering to an ideology does not form a distinct element of the crime, it does play a role and is often mentioned as one of the underlying facts proving a terrorist offence. The Prosecutor has appealed all the five cases, so it remains to be seen what role extremist ideology will play in the final ruling.

Sentencing

The average length of sentence for female returnees and VEOs in the Netherlands is one year, seven months, and ten days.ⁱⁱⁱ The length of sentence refers to the duration of imprisonment that female VEOs are given in their verdicts, taking into account conditional parts of the sentence that are usually not enforced. However, the actual time that they have to spend in prison following their conviction is not necessarily the same as that which is pronounced in the verdict. The time spent in pre-trial detention is deducted so the actual time spent in prison becomes lower. Additionally, early releases after serving two thirds of the sentence could further shorten this period. As the Dutch dataset is very small, it is difficult to draw meaningful conclusions on the length of sentence, although it is clear that over time the women were receiving longer prison sentences.

Looking beyond the average length of sentence, one can see that the length of sentence has increased over time for different reasons. According to one interviewee, the first wave of women that travelled to Syria and Iraq, have mainly done so to join their husbands, whereas women who joined later were themselves (more) committed to the ISIS ideology. Additional information after the territorial defeat of the caliphate, also revealed the women have engaged in different activities including recruiting new members, providing training, and supporting terrorist activities. While the first female returnees who were sentenced between 2014 and 2017 received sentences of around eight months imprisonment, women convicted from 2018 onwards received higher sentences between thirteen months and six years imprisonment.

The maximum penalty for a terrorist offence under Dutch law is fifteen years imprisonment for membership in a terrorist organisation, although this sentence has rarely been given. Currently a bill is being prepared to raise the maximum penalty from fifteen to twenty years as this allegedly would better reflect the gravity of the crime.²⁴

To determine the length and type of sentence, the courts have taken many different factors into account. Mitigating factors include mental health issues, remorse, duration of the trial, strict

ⁱⁱⁱ Given the limited number of cases, individual cases such as the case of Imane B. who was sentenced to one week in prison in December 2015 significantly influence the overall average. Imane B.’s sentence was not enforced following the deduction of the days she had spent in pre-trial detention.

supervision during pre-trial detention, willingness to cooperate, age, and whether the convicts have children. Concerning aggravating factors, the lack of willingness to take responsibility for own acts, the duration of stay with ISIS, and the role they played within ISIS are crucial. In six cases, the courts considered the impact that a deprivation of nationality would have on the defendants as mitigating factor. In the case against Fatima H., her Dutch citizenship was revoked because she was deemed a risk to national security. At the age of seventeen, she went to Syria to join ISIS and contributed to propaganda activities. The deprivation of her citizenship means that she is no longer legally permitted to reside in the Netherlands after she has served her prison sentence. Despite the gravity of the crime and the duration of stay with ISIS, the court took into account that her children who have the Dutch nationality will be affected by this revocation.²⁵ Three out of the five women who were repatriated in February 2022 also risk being stripped of their nationality once the judgement becomes final. Considering the impact this has on their children, the court has taken this into account as a mitigating factor. In the case against the five women, the duration of stay and conditions in the al-Hol camp were also taken into account and lead to relatively short sentences. The verdicts of all five women have been appealed by the prosecutor. Finally, whether women are still adhering to extreme ideology is considered an aggravating or mitigating factor. How this assessment is made, will be discussed in the next section.

Since 2021 the execution of sentences has changed due to a new law called “punish and protect” which is also applicable to convicted female VEOs.²⁶ The most significant changes are that early release is no longer automatically granted when two thirds of the sentence have been served. Instead, the prosecutor will, on a case-by-case basis, determine whether a detainee can be released earlier from prison and under which conditions. However, if one’s nationality has been revoked, convicted female VEOs are not eligible for early release, because they are no longer legally entitled to be in the Netherlands. To make a proper assessment, the probation service, the prison management, victims or their family members, and the convicted person will be consulted. The behaviour of the convicted person, the risk of recidivism, and the impact on society are factors that are considered. Since the maximum period of early release has been reduced from ten to two years, prisoners who have been convicted for more serious offences and received longer sentences, will not be eligible for early release after serving two thirds of their sentence.

As part of the sentence, courts have ordered a broad range of probation measures for female returnees and VEOs. These can include measures relating to housing, finance, health but also to disengagement. These measures are mandatory, and some can commence in prison.

The Use of Administrative Measures

In the Netherlands, administrative measures can be imposed before, during or after a criminal conviction. Two measures have specifically been mentioned by the interviewees: the listing of a person on the national list of terrorism, and the deprivation of nationality.

National List of Terrorism

In practice, all persons who are known to have travelled to Syria and Iraq have been listed. With few exceptions in cases where there is no information available for those who travelled in early 2012. The purposes of listing and prosecuting individuals are different, although the underlying facts considered in the procedure can be the same.

One of the grounds to list someone is if there is sufficient indication that this person attempted, committed, or facilitated the commission of terrorist activities. According to the Sanctions Law, it is considered sufficient indication if an investigation has been opened, a prosecution has started, or a person has been convicted of terrorist offences. Furthermore, if the Dutch Intelligence Service provides an official notification that a person is about to, or is already involved in, committing terrorist activities, the decision can be taken to list the person. Most persons who are currently on the list are deemed to be abroad. By freezing assets, sanctions aim to reduce the chance a person would be able to commit a terrorist attack.

The Ministry of Foreign Affairs (MFA) chairs the inter-departmental consultation that determines whether a person should be listed or de-listed. Participating in this consultation are representatives from the prosecution office, intelligence agency, Ministry of Finance, financial intelligence unit, and the Ministry of Justice and Security. More recently, the prison facility also participates in this meeting.

Although the measure is a preventive one, its practical implications are very severe. The current sanctions regime in the Netherlands dates back to 1977 and has been updated to implement United Nations Security Council Resolution (UNSCR) 1373 (2001). Since the rise of ISIS, the freezing of assets as preventive administrative measures has been used more frequently to prevent the financing of terrorism. Not only are all assets of a listed person frozen, but nothing of monetary value can be given to the listed person. This includes everything such as clothing, training or even books. If a female VEO is still listed after release from prison they can face difficulties for example in securing housing or enrolling for educational programmes.

However, a person can be delisted. So far, all but one requests for delisting pertaining to female detainees have been granted. The overall duty of care, due diligence, and the impact which listing has on a person after serving their sentence are considered in deciding to delist a person. The request to be delisted can be filed by the person themselves or by their lawyer, by the municipality or the case manager in prison. If, as part of the request, the risk assessment is submitted, it will be taken into consideration together with other available information from the partners taking part in the consultation. The MFA can also decide to delist a person. The process of delisting can take between three to six months and may thus interfere with the release date from prison and the reintegration plan of a female detainee.

Deprivation of Nationality

The other administrative measure that is relevant in relation to female VEOs is the deprivation of nationality. The Dutch Immigration and Naturalisation Service (IND) is responsible for implementing and enforcing the revocation of Dutch nationality, yet it is a discretionary power of the Minister of Justice and Security. There are two ways in which nationality of dual citizens can be revoked in relation to terrorist offences. According to article 14 section 2 of the Dutch Nationality Act, a person can lose their Dutch nationality if they have been irrevocably convicted for a terrorist offence in the Netherlands.^{iv} The purpose of this measure is to reflect the fact that a person has broken the bond of solidarity and loyalty with the Kingdom of the Netherlands.²⁷ This measure can only be imposed if the verdict has become final and if it does not lead to statelessness. Subsequently, a person residing in Netherlands will be become an alien.

^{iv} If someone is convicted for Article 134a Dutch Criminal Code, then citizenship can only be revoked after the criminal conviction has become final after 31 March 2016.

In case of an ongoing threat to national security, no residence right can be granted, and the IND will simultaneously issue a return decision and an entry ban to the Schengen area. This means the person has the obligation to leave the country. The decision is taken on the basis of available information based on the verdict, and input from the case management consultation lead by the municipality. The no entry ban can be issued for up to 20 years and only enters into force when a person has left the Schengen area.

The person will be heard before the decisions of deprivation of nationality and entry ban are taken. Both decisions can be appealed. Until an illegally residing person has left the country, the relevant authorities can also impose other administrative measures, such as a contact ban, area ban or duty to report to the police. The revocation of citizenship after a final conviction is in principle applied automatically, provided that the formal conditions are met. There is very limited discretion for the Minister or State Secretary of Justice and Security to decide not to revoke the Dutch nationality if the formal conditions are met. Only in very exceptional circumstances when a person is a minor, has serious (mental) health issues, is convicted with no or a very short sentence or has family members that are dependent on him or her can the Dutch nationality not be revoked. These exceptional circumstances have led to the decision not to revoke citizenship in six cases. Having children, a family life, and the impact that the revocation of the mother's citizenship has on children is not considered an exceptional reason to refrain from revoking the Dutch nationality but taken into account when deciding on the issuance of an entry ban. Out of the 29 revocation cases, nine have become final pursuant to article 14 section 2 of Dutch Nationality Act. One female has been expelled from Turkey after her Dutch nationality has been deprived.

The second way to revoke someone's nationality is when a person who is residing outside the Netherlands has joined a terrorist organisation that is considered a threat to national security under article 14 section 4 of the Dutch Nationality Act.²⁸ For the purpose of revoking nationality, persons who joined ISIS, al-Qaeda or Hay'at Tahrir al-Sham and affiliated organisations are considered to pose a threat to nationality security after 2017.²⁹ Simultaneously, with the revocation of Dutch nationality, the IND will also issue an exclusion order (*ongewenstverklaring*), which makes a stay in the Netherlands a criminal offence (article 197 Dutch Criminal Code) and the legal return to the Netherlands impossible. The decision of the revocation of the Dutch nationality can be appealed. There are limited grounds to refrain from revoking the Dutch nationality.³⁰ Out of 24 revocation cases pursuant to article 14 section 4 of the Dutch Nationality Act, four were successfully appealed in court. The Dutch Council of State has ruled in the case of Fatima H. that the interests of her children were not sufficiently considered in the decision to deprive her of her nationality, and subsequently overturned the revocation decision. Five decisions were withdrawn by the IND for procedural reasons and fifteen cases became final.

After a deprivation of nationality, the focus during detention should no longer be on reintegration in the Netherlands, but on reintegration in the country of the remaining nationality. According to the interviewees, this shift of focus should facilitate the return where possible. This could be facilitated by a transfer of the VEOs for the remainder of the sentence to a detention facility specialised for persons who are illegally in the Netherlands, provided that the security risks permit such a transfer. However, at the moment there is only one such facility in the Netherlands, only for men.³¹

Losing the Dutch nationality also means losing the national identity number which is needed for medical insurance, social services, housing, employment, or education. The consequences of losing the Dutch nationality and staying illegally in the Netherlands are severe, especially for those who have children, who remain Dutch even if their parents are deprived of their

nationality. In several cases, these women have never visited their country of other nationality. This complex situation causes distress and could severely impact a mother's ability to take care of their children. Mothers are unable to apply for medical insurance, register their children in school, arrange childcare or extracurricular activities. As a result, there is a risk that these women turn into illegality and return to a former or other violent extremist network.

After the deprivation of nationality and the return order has been issued, a person is no longer permitted to stay in the Netherlands. While some may voluntarily choose to leave the country, several others may not be willing or able to leave. Some may not have travel documents or there is a risk that their human rights might be violated, for example if the country of the remaining nationality is Afghanistan. If there is genuine risk that human rights will be violated, the Repatriation and Departure Service of the Ministry of Justice and Security will refrain from forcibly deporting the person to that country. Furthermore, the country of the remaining nationality may not always cooperate in taking back 'their citizens' by refusing to provide the necessary travel documents.

Several of the women who have been repatriated by the Dutch government in recent years have a double nationality, predominantly Moroccan, and are likely to lose their Dutch citizenship after their court decision has become final. As mentioned earlier, the risk of losing the Dutch nationality has been considered as a mitigating factor in several of the recent court cases. However, the prosecutor has appealed this verdict.

The Use of Ideological and Risk Assessments

Several tools are available to assess a person's violent extremism. Risk assessment is being used to determine whether the person would re-engage with violent extremism and investigates factors such as ideology and mental health. Different entities are involved in conducting ideological assessment and risk assessments for different purposes.

Ideological Assessment

The Dutch Probation Service is responsible for preparing 'Advise' - a report detailing the personal circumstances of the accused, the risk of recidivism including a risk assessment, ideological motivation of the individual, and advises on the recommended sentence and probation measures. The Terrorism, Extremism and Radicalisation (TER) team at the Probation Service consists of nineteen persons and is responsible for preparing these reports. The TER team is in touch with the accused throughout the criminal proceedings, starting with the arrest upon return and during the entire probation period. As a standard procedure, two members of the TER team are conducting interviews with the female returnees, starting by explaining the purpose of the meetings and the process. In most cases, female returnees are willing to cooperate to some extent. In some cases, the team specifically requests input from Nuance Through Training and Advice (Nuance door Training en Advies or NTA), a non-governmental organisation, to provide an ideological assessment.

The risk assessment by the Probation Service is being used by different actors for different purposes. It is being used during the trial to advise on the sentence and the type of probation measures, it is also being used within the prison context to determine which kind of security measures need to be in place. Finally, it can also be used once a woman is released from prison to monitor the probation measures that have been ordered by the court. In addition, whenever such measures need to be re-evaluated, a risk assessment will be conducted. A risk assessment

is valid up to one year and will then need to be conducted again. The Probation Service conducts a risk assessment by relying on two tools. The Risk and Advise Tool (RISc) is the more general tool that allows to determine the risk of recidivism divided in general and violent recidivism, based on a set of statistic and dynamic factors. This tool is used to prepare a report and is used in criminal proceedings, in particular when special probation measures end or need to be re-evaluated. This tool is not suited for VEOs as it does not address ideology. In addition to RISc, the TER also uses the Violent Extremist Risk Assessment 2 Revised (VERA-2R) to prepare their report which gives more insight into the risk of violent extremism.

Within the criminal justice process in the Netherlands, an ideological assessment can be ordered by the court at the request of the Prosecutor's Office. Understanding how a person acted or how they are ideologically motivated can be helpful to better understand the person's motives. However, it should be distinguished from terrorist intent, which refers to the intended consequences. Motivation on the other hand refers to personal drivers for why an individual has committed certain offences. These drivers can be ideological, economic, opportunistic, a sense of belonging or thrill seeking to name a few.³² Terrorist motive does not form an element of a terrorist offence but can help to understand the context in which a terrorist offence has been committed. It can also be considered as mitigating or aggravating factor. An ideological assessment can be part of the 'advice' that is being prepared by the Dutch Probation Service. In some cases, the ideological assessment is made together or by NTA.

NTA can also be requested by a court directly to provide an ideological assessment, in addition to the assessment conducted by the Probation Service. NTA conducts such an assessment based on the police file and a series of voluntary meetings with the suspect. So far, NTA indicated that women have participated and cooperated to a certain extent. The purpose of these meetings is first to assess whether a person is ideologically motivated and then to determine what this means: how have their religious concepts been formed, which sources do they rely on, and how does ideology determine their decisions and acts? NTA also provides advise, training, and ideological assessments for other Dutch stakeholders, such as municipalities, probation service, prison, police, and occasionally for defence counsel.^v

Mental Health

Finally, the prosecutor or the court can request the Netherlands Institute for Forensic Psychiatric and Psychology (NIFP) to prepare a report regarding the mental status of the suspect. Like the Probation Service, NIFP also relies on the VERA-2R evidence-based risk assessment instrument specifically designed to assess risks related to terrorism and violent extremism.³³ This so-called Pro Justitia report is prepared by a psychologist, psychiatrist, and case manager who look into the background of the accused. The Pro Justitia report does not determine whether someone is guilty or ideologically motivated but addresses the mental status of the accused. NIFP can conclude that a diminished mental capacity existed before, during, or after the crime. It is up to the court to decide whether it follows the findings made in the report, which could eventually lead to the conclusion that a person cannot be criminally responsible. In the case of Angela B., NIFP concluded that before her departure she suffered from mental health issues and as result could not be held responsible for any criminal act before departure. The court concluded she was guilty as charged of membership in a terrorist organisation and

^v The defence counsel does not directly request an ideological assessment but request the Prosecutor or the court for an ideological assessment.

preparation of terrorist offences but took her diminished mental capacity as a mitigating factor into account and sentenced her to a lower sentence than requested by the prosecutor.

As can be seen, several different ideological assessments are made during criminal proceedings. From the 28 cases involving female VEOs, in all cases, except for the acquittals, the Probation Service has provided an assessment. In sixteen cases, NIFP has prepared a Pro Justitia report and in five cases the Probation Service asked NTA to prepare an ideological assessment. The fact that women may have to participate in multiple assessments, including with the child protection services, can be upsetting for them. Without having access to the actual assessment, it is difficult to determine what the criteria are to request an assessment, and even more difficult to determine in how far the ideological assessment is used during sentencing.

A recent study on gender aspects of different ideological assessments in the Netherlands concluded that,

“[r]egarding the gender aspects, professionals indicate that women show different signals and ask for a different (overall) approach, whereas most instruments are developed on the basis of knowledge on men. As such, professionals point at the potential need for adjusted instruments and assessment procedures, and, relatedly, more training to deal with diverse groups.”³⁴

Recidivism

In relation to female VEOs, several factors are relevant to determine the risk of recidivism:

- Is the female returnee or VEO still part of a jihadi network?
- What was their role within the network?
- To what extent do they still adhere to extremist ideology?
- What is the status of the female VEO?
- How has their identity been formed and what is their level of self-esteem?³⁵

When the risk of recidivism is deemed to be high, it does not necessarily lead to higher sentences. The Probation Service rather recommends that the sentence should be executed directly and specific measures be imposed during the probation period. Siobhan W. travelled to Syria in 2015 where she joined ISIS and made contributions to the armed jihadi struggle. Back in the Netherlands, she was sentenced to 36 months in prison, of which twelve months included probation with a period of three years and special probation conditions. Her sentence was immediately executable. Although not claimed by defendant or raised by the Prosecutor, the woman was diagnosed with a personality disorder existent pre-crime, and post-traumatic stress disorder later on.³⁶ This shows how the risk assessment of the Probation Service is taken into account to determine the most suitable type of sentence.

The risk of recidivism is often discussed in the media, but research has shown that the risk of recidivism is exaggerated.³⁷ When talking about recidivism of female VEOs, a distinction should be drawn between terrorist offences and ordinary criminal offences that have been committed, and between violent and non-violent crimes. It is important to note that most of the female VEOs have been convicted for non-violent crimes. According to the data, it appears that only two women have been charged previously for a terrorist offence. In one case, the woman was acquitted for membership in a terrorist organisation prior to standing trial for financing of

terrorism and violating the sanctions law. The defence argued that she should not be prosecuted again as it violated the *ne bis in idem* principle (article 68 Dutch Criminal Code), which provides legal certainty and protects the accused from being prosecuted twice for the same facts. The court concluded that the second case against her related to a different set of facts and a different period of time and thus does not violate the *ne bis in idem* principle. Nevertheless, the woman was acquitted again due to a lack of evidence.³⁸ Considering that the woman was also acquitted of the previous charges, it is questionable whether this case constitutes recidivism and is a violation of the presumption of innocence - *res judicata* principle. In a recent study carried out in the Netherlands among the convicted male VEOs, 46 out of the 182 (25.3 percent) committed one or more criminal offences after release from prison. Only nine persons (five percent) committed a terrorist offence, mostly for participation in a terrorist group.³⁹ So far, data on female VEOs does not indicate that any of the women have a prior conviction for terrorism or have been involved in terrorist-related activities in prison or after release from prison.

After the women have served their prison sentence, several risk and protective factors have been identified that would contribute to female VEOs resisting radical networks. Having female VEOs transition through a regular prison, allows them to create new friendships with other female detainees not based on ideology, but shared interests. One of the risk factors is that because the women know each other for a long period of time and have gone through hardship abroad, they form a special bond. Additionally, deprivation of nationality has also been mentioned by interviewees as a reason to push the female VEOs to reach out to radical networks. The female returnees who have stayed with ISIS until the very end have a very high status in radical networks and are considered as very desirable members of these networks. After release from prison, some female VEOs may be susceptible to the status and be drawn back to radical networks.

Prison Management

In the Netherlands, convicted VEOs are separated from other convicted criminals. The main purpose for the concentration models is to prevent convicted VEOs from recruiting or radicalising other inmates, and from creating networks.

The current security measures that are imposed include:

- monitoring of supervised visits;
- video monitoring in the general areas;
- recording of phone calls;
- checking of incoming and outgoing mail; and
- screening of all contacts outside the prison.

In the summer of 2020, a terrorism unit specifically for women was created in the prison in Zwolle. It had the capacity to host a maximum of ten persons. After the District Court ruled that it would terminate the criminal proceedings against Ilham B., it became clear that the Dutch government would begin to more actively repatriate women. In December 2022, the Minister of Justice and Security, doubled the capacity of the unit.⁴⁰ As of June 2023, nineteen women are placed in Zwolle. Should capacity be exceeded, female VEOs can temporarily be placed in a terrorism unit of the prison in Vught. The decision is made on a case-by-case basis whilst ensuring that the reintegration process of the women is not severely impacted. Most of the women who are incarcerated in Zwolle have not received a final sentence, and are either in pre-trial arrest, or have an appeal pending.

The women can participate in minimum 36 hours of activities such as education, work, sport, religion, or other recreational activities. They can receive one visit per week and make a maximum of 40 minutes per week of phone calls with relatives or friends. In a regular prison, a total of 42.5 hours of activities are offered to detainees. The big difference between a regular prison and a terrorism prison is the level of supervision. Groups in terrorism facilities consist of maximum five persons and are supervised by two prison staff, whereas the ratio in a regular prison is 24:2. This intensive supervision allows to monitor the consistency in behaviour of female detainees.

During the creation of a separate unit for female VEOs, three women were detained in the prison in Vught, which is one of the two facilities for up to 60 male VEOs. This arrangement posed several challenges. First of all, physically separating men and women within one facility is complicated. What has, however, proven more difficult is that male VEOs were 'protective' of the female VEOs and for example did not tolerate male prison staff interacting with female VEOs. An advantage was that the female VEOs could receive more tailored support from dedicated staff. The training modules consist of sessions on group dynamics, pathways from radicalisation to detention, international developments regarding terrorism, Salafism, and practical tools on gathering information on ideology.

The strict detention regime has been criticised both internationally and nationally, and undergone several revisions over the years, although most of it in relation to the terrorism units at Vught and De Schie.⁴¹ One of the drawbacks of the concentration model is that new radical networks can be formed. Therefore, a differentiation model is being applied. In practice, this is less of an issue for women, as most of the female returnees already know each other from their period in the camps, or even before travelling to Syria and Iraq. Many of the female returnees have also maintained contact with their families while being in Syria and Iraq. The incarcerated female VEOs are a more homogenous group compared to the male VEOs. To prevent that strict adherence to radical ideology will persist or be imposed among the female detainees, differentiation within the concentration model is made between hardliners who are still committed to the ISIS ideology and others who distanced themselves from ISIS by placing them in different group activities. The strict security measures that are inherent to a terrorism unit are considered too severe and stigmatising for the women, while such strict security measures for men might even increase their status among detainees. Currently the terrorism unit in Zwolle is developing additional guidelines on which security measures should specifically be applied to female VEOs.

Once a woman arrives at the detention facility in Zwolle, information will be collected to assess the risk the woman poses (classification) and what security measures are needed (differentiation). This is done through observation by detention staff, and a risk assessment by the Probation Service with relevant information compiled by Detainee Criminal Investigation Information Point (GRIP), a specialised unit of the National Police. Once all information is compiled, it will be used to determine which level of security measures are needed but also to prepare an individualised reintegration plan. In less than half of the cases, a complete risk assessment is unavailable due to lack of information.⁴² In these cases, the Probation Service provides a written report. The risk assessment based on the VERA-2R tool is repeated after one year, and the risk is considered to be higher, not because the woman poses a bigger risk but because more information has become available. The information that is often lacking relates to the commitment to ideology, and their role and activities during their stay in Syria or Iraq. When the risk assessment is made a year later, a more complete assessment can be made based on ideological assessment, but in particular through observations by prison staff. This

allows to make a better assessment of the convicted female VEOs and adjust or modify the security measures and the individualised reintegration plan.

As around two-thirds of the incarcerated women have children, one of the challenges remains how to ensure that the mothers can maintain a relationship with their children. In addition to one weekly visit, every six weeks children can spend time with their mother in a special child-friendly room. In practice, it is not always possible to facilitate these visits due to practical and logistic challenges which causes frustration among the mothers.

Each detainee is assigned a case manager who is in charge of developing an individualised reintegration plan. The five areas of focus are: work and income; housing; finance; identity papers; and health insurance. Every six weeks, a multidisciplinary meeting – multidisciplinary resocialisation coordination meeting (MAR) – takes place. It is being led by a staff member of the programme to tackle radicalisation and extremism (PARE, a programme that belongs to the Prison Services but is not connected to a specific prison facility). Several prison staff participate in the MARs. Other parties include the Probation Service, the case manager, and the municipality with the aim to monitor and adjust where needed the individual reintegration plan and assisting with developing a network. The MAR meetings have helped to identify potential divergent versions or perceptions of the female VEO and detect possible false compliance.

Under the Punish and Protect Law, detained VEOs who have been stripped of their nationality are now foreigners who are no longer legally in the Netherlands. Those who are willing to leave to the country of other nationality can request a suspension of their sentence. The suspension will only enter into force when a person has left the Netherlands and is only available for detainees that have been sentenced for three years or more and have already served half the sentence. The country of the other nationality must be willing to cooperate in the return of the individual and if needed, issue a travel document. An individual's request for suspension will be refused if there is a genuine risk that the human rights of the detainee would be violated in the country of the other nationality, or if other criminal investigations are still on-going. This is relatively new measure and so far, it has not yet been applied to female VEOs.⁴³

Once a convicted VEO has completed one-third of their sentence, they can be transferred to regular prison for a period between four months and one year, which contributes to a smoother reintegration into society. For example, they could apply for reintegration leave for a job interview. In practice, after reduction of pre-trial detention, the remainder of the sentence is so short, that in most cases the female VEOs will be released from terrorism unit straight into society, without transitioning through the regular prison. Female VEOs can be monitored and observed in regular prisons for how they manage in a prison setting with less supervision and less strict security measures. The regular prison also offers more opportunities and support to reintegrate into society. When the female inmates are released into society without serving the last part of the sentence in a regular prison unit, it could increase the risk to recidivism. However, this has not happened in practice. So far, six female VEOs have been released and only two of them have transitioned through regular prison.

False Compliance or Strategic Opportunism?

The issue of false or disguised compliance has been raised in many interviews conducted by the author. Considering that the Netherlands uses the concentration model in prison, the question is whether false compliance is more likely to occur as female convicts could more easily share ideas on how to manipulate the system. Several of the interviewees indicated that there is no actual proof of false compliance, in the sense that women were deliberately able to

manipulate the outcome of (risk) assessments and the course of the proceedings. Practically all women who stand trial indicate they were merely housewives and had no major role in ISIS. In particular, when the women are awaiting trial or in the period until the judgment becomes final, they may withhold certain information and are very keen to demonstrate they have adopted a ‘modern’ approach to life. Overall, the women do not share much information about their time with ISIS, or about the role or activities of their husbands. The women are well aware of the different steps within the criminal proceedings and share tips and tricks among each other. Until the judgement is final, the women remain reserved even in detention. This makes it difficult to get a better understanding of their role during their time with ISIS but can also be difficult in determining which kind of individual reintegration plan is suitable. However, interviewees indicated that the different multidisciplinary consultations are helpful to identify any possible cases of false compliance.

Rehabilitation and Reintegration

The process of rehabilitation and reintegration (R&R) in the Netherlands starts in prison and is continued upon release. The Dutch R&R approach can be characterised as a comprehensive, tailor-made, multi-agency approach, and one that is focused on disengagement.

During the sentencing, different rehabilitation and reintegration measures are imposed on the women as can be seen from the graph below. Participation in these rehabilitation measures is thus mandatory. In deciding on these mandatory measures, judges can order a convict to follow more than one measure. Hence, the 28 female convicts captured in the dataset were ordered to a total of 74 measures from ten different categories (Figure 5.7). It can be seen that the most commonly court ordered rehabilitation and disengagement measure (nineteen percent) is the reporting duty to the Probation Service which fourteen of the 28 women had to follow. Equally many women had to follow regulations on their living arrangements, and psychosocial counselling, either in addition to each other or in combination with other measures. Contact restraints which amount to fifteen percent of all ordered measures have been ordered in the cases of eleven women. Fulfilling mandatory social services was only ordered in one case and thus presents the least frequently court-ordered rehabilitation and disengagement measure in the cases of female VEOs, presenting one percent of all such measures as shown in Figure 5.7. The Dutch Probation Service is responsible for monitoring the special measures that have been imposed by the court during and after detention. The challenge with compulsory rehabilitation measures is that it is difficult to determine whether the women are intrinsically motivated to participate in these measures.

Already prior to release from prison, the municipality where a female returnee resided before she travelled to Syria or Iraq will be notified. This allows the municipality to be involved at an early stage. Every person that is discussed in a case management meeting needs to be notified. Some of the municipalities, such as The Hague and Zoetermeer choose to inform the women in person (in prison) of this decision and create an opportunity to build trust. Several municipalities actively stay in touch with the family of the women that have left for Syria or Iraq. This contact establishes trust and helps to manage expectations. It also makes it easier to reach out to the female relative once they have returned or were repatriated.

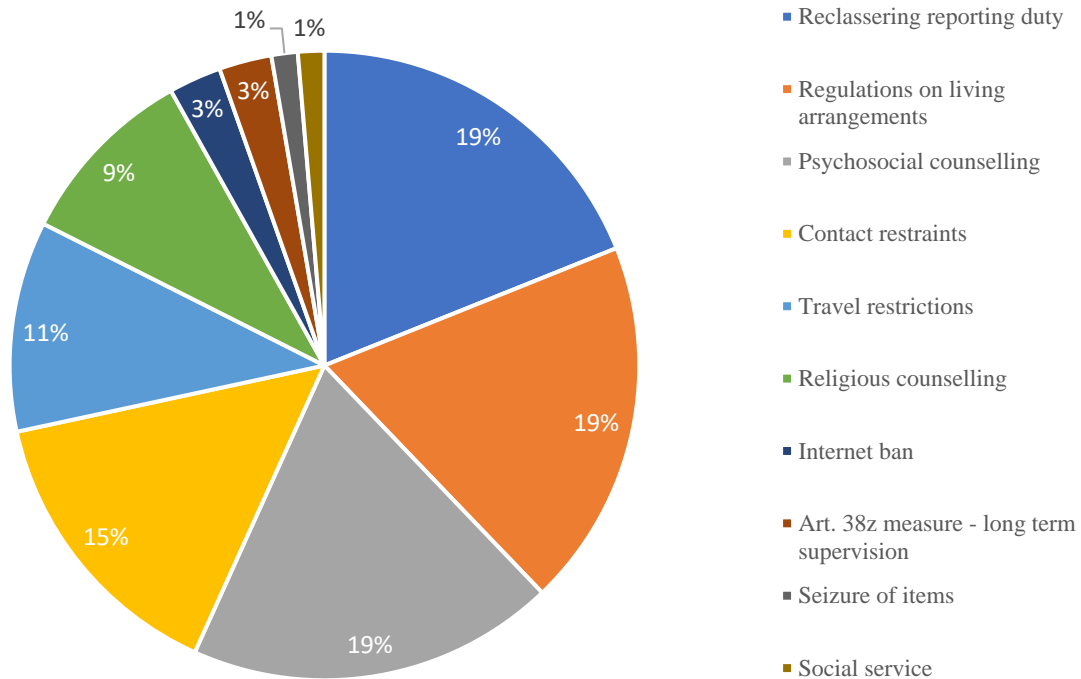


Figure 5.7: Types of court ordered rehabilitation/disengagement activities for female VEOs prosecuted in the Netherlands (n=74 measures; as of 15 July 2013)

Case management consultations can take place simultaneously when the MAR meetings are taking place. The MAR meetings are perceived more in depth but happen during the period that a person is detained, whereas the case management consultations can already start when a person has travelled to Syria or Iraq and continues after a person has been released from prison. Another notable difference is that the police is only present at case management consultations to provide information.

Some municipalities, such as The Hague, have developed their own return plan, a practical guide that can assist local authorities and other partners indicating which steps have to be taken by whom. It also includes a communication strategy. No distinction is made between male or female returnees.

As mentioned earlier, the focus of reintegration is achieving five 'basic conditions for reintegration', namely: a valid ID; housing; a job or other day activity; income; and (the continuation of) appropriate care. The underlying reason is that by having those basic conditions in place, it would reduce the likelihood of recidivism but also reduce the chances that released female VEOs would (re)join a jihadi network.

The essential goal of the rehabilitation and reintegration process is disengagement, which targets behaviour, as opposed to de-radicalisation process, which targets an inmate's beliefs. Disengagement is considered a more realistic goal in that it simply requires an inmate to stop radical behaviour, without having to have a complete renouncement of or delve too deeply into their core values and beliefs.

Many municipalities and interviewees have indicated that deprivation of nationality, or the risk of deprivation of nationality, and in particular the consequence of this measure, is not considered conducive for the reintegration. The four big municipalities (Amsterdam, Rotterdam, Utrecht, and The Hague) have shared several objections in particular regarding the

input of the case management consultations requested by the IND in the decision to deprive the Dutch nationality after criminal conviction. These four municipalities indicated that they are not equipped to make a risk and security assessment after a person has been deprived of their Dutch nationality.⁴⁴ The Probation Service has also shared several objections. Because of the consequences of deprivation of the Dutch nationality, the Dutch Probation Service says it is unable to perform its tasks of providing supervision and assisting with reintegration into Dutch society. This is the reason why the Dutch Probation Service requests to be discharged of its legal tasks because they cannot be executed through them.⁴⁵ The majority of the female returnees are from the region around The Hague and have double nationality.^{vi}

The multi-agency case management consultation that took place during detention, the MAR meetings, is now being continued at local level under the Safety House model established in 2013. The Safety House model can be used not only for dealing with the reintegration of VEOs, persons who are vulnerable for radicalisation, but also domestic violence, child abuse and disturbed person who pose a security risk.⁴⁶ Several of the stakeholders that were involved in the MAR meetings, such as Dutch Custodial Service, are also involved in the individual case management consultation led by the municipality. Participants of the case management consultation include the Public Prosecutor's Office, police, probation service, but could also include mental health or youth care workers, or child protection board. Not all municipalities have adopted an approach to address radicalisation and case management consultations.⁴⁷ While some municipalities have had a relatively large number of citizens depart for Syria and Iraq or even had experience with radicalisation prior to the rise of ISIS, there are differences between bigger, medium, and smaller municipalities. The way municipalities implement the case management consultations also differs.

A combination of interventions can be implemented, combining security and care. These may consist of legal and administrative measures such as travel ban, an area ban, a restraining order, or a reporting obligation, as well as more 'support orientated' measures such as family support, ideological and psychological counselling, practical support with housing and a job, help in breaking contact with the former extremist network, a social media ban, and involvement of child protection services to protect the best interest of the child. Municipalities can offer additional support in housing, debt management, and welfare applications under the condition that the former female detainee cooperates in the disengagement process.

In general, women return to the municipality where they were registered prior to travelling to Syria and Iraq or the conviction of a terrorist offence. Most of the female returnees have children, and upon return to the Netherlands they will be separated from them. After a period of six months of observation, the children can be placed in foster family or with the extended family. Some female convicts indicated that after release from prison they would like to return to the municipality where their children are located.

After release from prison, a social case manager will assist with the reintegration of the female VEOs together with Probation Service. The social case manager can assist with work, schooling, housing and assist with financial support. The big difference is that the R&R in prison can be mandatory and is fully being funded by the Ministry of Justice and Security, whereas the R&R upon release is voluntary and is no longer funded through the prison authorities. The reintegration after prison is funded by the municipalities. While participation in R&R programmes is considered more successful if the detainee is actively participating and committed, some of the R&R components can be mandatory and are imposed by the sentence.

^{vi} Only a limited number of interviews were conducted with municipalities and therefore we are unable to confirm regarding double nationality in other municipalities.

Each municipality offers their own rehabilitation and reintegration programme. One of the interviewees indicated that the main distinguishing factor between men and women is having children. During the post-prison period, the municipality can assist former female detainees with childcare support while they are working or taking classes. In addition to their own reintegration programmes, women also have to engage with several child protection agencies and possibly family courts adding another set of actors with whom they need to interact.

One of the challenges in rehabilitation and reintegration of female VEOs is sharing information among the different stakeholders that are participating in the case management under the Safety House model, given the strict privacy rules. To facilitate information sharing and clarifying the roles and responsibilities between the different stakeholders, a non-binding covenant was adopted to provide guidance on what kind of information can be shared. Currently, a bill has been prepared that provides a legal basis for the existing practice of case management consultations and thus also for the exchange of information.⁴⁸

From research conducted among mainly male VEOs released from prison, it was clear that most of the male VEOs are struggling with housing, jobs, and income, but not significantly more than regular male detainees. While the rate of recidivism for terrorist offences is low, there is a risk of (re)engaging with a jihadi network in particular when the basic conditions for reintegration are not met, and when there is a lack of healthy support network of family and friends.⁴⁹

One of the issues that could arise is that female VEOs are unable or unaware that they need to obtain a Statement of Good Behaviour (SGB) for certain jobs because of their conviction for terrorist offences. Some of the female VEOs in prison would like to become a teacher or a youth worker for which a SGB is required. One convicted female returnee was able to obtain a SGB and worked as volunteer for a refugee organisation with vulnerable persons and had access to sensitive information. This led to a discussion whether the procedure of acquiring a SGB sufficiently considers the risks to society. The purpose of the screening is to determine whether the criminal past forms an obstacle to perform a certain function. The screening should take the interest of the individual and the risks to society into account. As a result of this discussion, the policy to obtain a SGB for former convicts of terrorist offences is going to be tightened. One of the proposed measures is to increase the period of maintaining the status of having a criminal past from four to twenty years for certain jobs.⁵⁰

So far, not enough female VEOs have been released from prison, to assess whether their reintegration and disengagement into society is successful under the given frameworks. Several interviewees indicated that they do not expect that many of the female VEOs to commit (violent) terrorist offences, but some are more likely to reconnect with the jihadi scene, in particular when there is no supervision, or when monitoring has ended.

Challenges and Conclusions

So far, 28 women have been prosecuted and twelve are awaiting trial. The prosecutorial strategy has evolved over the years and women are now more frequently being charged for the full range of crimes that they have committed, which include domestic offences such as child neglect and core international crimes. A range of mitigating and aggravating factors are taken into account during sentencing, but no consistency among the courts can be seen. The use of multiple risk and ideological assessments and how they are considered during sentencing is unclear. It can be overwhelming for the women to participate in several such assessments.

While some significant steps have been taken to expedite the delisting of women from the national terrorism list, not all stakeholders involved are aware of the process. Transparency about these procedures could be improved. The vast majority of interviewees have serious concerns regarding the implementation and impact of deprivation of the Dutch nationality and do not consider it conducive for the reintegration of these women into society. There are tensions between the different stakeholders on the use of this particular measure.

In the prison context, one of the key challenges is that many of the women are no longer able to transition from a terrorism unit to a regular unit, which is considered beneficial for the reintegration of women into society. Other challenges include strict security measures. Considering that most of the women were not involved in violent terrorist activities, the risk that they would engage in violent terrorist activities is considered relatively low. It can be questioned whether such strict measures are indeed needed.

The information sharing process in the case management consultations as part of the Dutch R&R approach has been legally formalised and information sharing has been improved. Not all municipalities have the same capacity to deal with released female VEOs, and as a result there might be differences from one municipality to the other. So far, too few women have been released to draw any conclusions regarding the success of the rehabilitation and reintegration efforts.

Currently, none of the women were convicted for terrorist offences prior to their latest conviction, indicating that they do not have a history in terrorism-related activities. Looking at the dataset, most women engaged in non-violent terrorist activities such as recruitment, incitement, and propaganda activities.

This does not mean that women pose no risk after release from prison. Depending on their role and the status they had within ISIS, some women could still be ideologically motivated and (re-)join a radical network after release from prison. In particular, when women have gained expertise in weapons and training, they can spread this knowledge to others. The individual risk and protective factors are also important in determining whether a woman would re-engage with a radical network or other terrorist activities.

Case Study: Yusra L.

Yusra L., a widow of an ISIS fighter, was arrested in October 2019. She was suspected of being one of the hosts of different ISIS groups on Telegram, most prominently a group called *GreenBirds*. This group was used as an un-official media channel by ISIS, like many other groups on Telegram, and aimed at spreading ISIS ideology and making calls to armed or financial jihad. The size of these groups varied from 28 participants to as many as 190 participants. Yusra L. was later found to be the administrator of most of these groups and was otherwise a member.

During an investigation into the Telegram activities of another suspect, the authorities became aware of the activities of Yusra L. which led to opening investigations against her. Yusra L. was initially charged with membership in a terrorist organisation, incitement of terrorist offences, and financing of terrorism. The investigation revealed that Yusra L. had also distributed videos of victims being beheaded, murdered, or even burned alive. While sometimes she just further distributed the videos, she had also, in some instances, added her own dehumanising and humiliating comments. Among others, she called the burning victims “roasted chickens” which led the authorities to add the war crime of outrage upon personal dignity to the indictment of Yusra L.

On the 29 June 2021, the District Court in The Hague found Yusra L. guilty of all counts and sentenced her to six years imprisonment (minus the 32 months of pre-trial detention) and compulsory psychiatric treatment because she suffered from a mental disorder at the time she committed the offences. This verdict is unique for several reasons.

Firstly, in this case, the court concluded for the first time that, under Dutch law, ISIS is not only a terrorist organisation, but also a criminal organisation with the intent to commit war crimes and other core international crimes. In order to prove this the court had to establish a number of facts. First, it found that ISIS is a criminal organisation within the meaning of article 140 of the Dutch Criminal Code, as confirmed in previous case law. Second, based on its own case law, the court reiterated that ISIS intended to commit terrorist crimes, and that there was a non-international armed conflict between ISIS and the armed forces of Iraq and Syria. Third, concluding that ISIS intended to commit war crimes, the court established that ISIS had the intention to kill persons protected under IHL. In fact, the evidence showed that large scale executions and beheadings of civilians and persons *hors de combat* are part of the group’s modus operandi. Moreover, the public display of the bodies of the victims and lack of burial was considered as a violation of the personal dignity of the deceased. The online distribution of videos depicting these activities further contributes to said violation.

Secondly, the verdict was unique as Yusra L. was the first person convicted for committing a war crime in relation to ISIS activities in Iraq from within the territory of the Netherlands. As she was not herself present in the conflict zone, the court had to carefully consider whether her actions could be considered a war crime. The court concluded that the distribution of these videos, especially in Telegram channels whose purpose was to distribute jihadist material which glorifies ISIS, shows support for the atrocities committed by ISIS, regardless of whether she added comments to it or not. In addition, for a successful war crimes conviction, a nexus between the conduct of Yusra L. and the armed conflict needed to be established. Hence, the court turned to the jurisprudence of international tribunals which previously established that for conduct to qualify as a war crime, it does not need to

have taken place in the course of the fighting or within the area of combat, as long as the crimes are closely related to the hostilities. The court ruled that Yousra L.'s display of prisoners and deceased persons in a degrading manner contributed to an outrage upon the personal dignity of detained persons. Thus, in sharing the videos on Telegram, she acted in line with the media strategy of ISIS as a '*media mujahedin*.' This formed the nexus between Yousra L. and the armed conflict in Syria and Iraq.

Lastly, and perhaps most importantly, Yousra L. was the first female in the Netherlands to be charged and convicted cumulatively, for terrorism offences and core international crimes. While this case is still pending on appeal, the verdict demonstrates that prosecuting women beyond terrorist offence is feasible and could be pursued where appropriate in the future. Several women who were repatriated to the Netherlands in late 2022 are also facing allegations of both terrorism and core international crimes.

Source: Case 09/748012-19; 09/748012-19-P, Yousra L., District Court The Hague, Judgment, 29 June 2021, <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBDHA:2021:6620&showbutton=true&keyword=09%252f748012-19%253b%2B09%252f748012-19-P&idx=2%20%20https:%2F%2Fuitspraken.rechtspraak.nl%2F>.

¹ Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, “Uitreizigers en terugkeerders. Hoeveel Nederlanders zijn uitgereisd en bevinden zich nog in the regio?”,

<https://www.aivd.nl/onderwerpen/terrorisme/uitreizigers-en-terugkeerders>

² Ibid.

³ Ministerie van Justitie en Veiligheid, “Dreigingsbeeld Terrorisme Nederland 58, (30 May, 2023), p. 19.

<https://www.nctv.nl/themas/contraterrorisme/documenten/publicaties/2023/05/30/dreigingsbeeld-terrorisme-nederland-58>; For more information on gender-specific aspects of female travellers and returnees in the Dutch context, see Foreign Terrorist Fighters Knowledge Hub, Netherlands country page:

<https://www.foreignterroristfighters.info/country/nl>.

⁴ Thomas Renard and Rik Coolsaet, “Returnees: who are they, why are they (not) coming back and how should we deal with them?”, *Egmont Paper 101*, February 2018 (Brussels: Egmont Institute), p. 4.

https://www.egmontinstitute.be/app/uploads/2018/02/egmont.papers.101_online_v1-3.pdf.

⁵ Case 83/165263-20, 83/058851-22 and 83/058827-22, Judgment (First Instance), District Court of Rotterdam, 31 August

2021. <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBROT:2022:7335&showbutton=true&keyword=financier%2Bterrorisme&idx=1>.

⁶ If the nationality has been revoked of these women under article 14 section 2 of the Dutch Nationality Act, the entry ban – which is imposed together the deprivation of nationality -can be temporarily be suspended to allow the women to stand trial in the Netherlands. See Rijksoverheid, “Kamerbrief met 4e rapportage uitreizigers,” 15 May 2023. <https://www.rijksoverheid.nl/documenten/kamerstukken/2023/05/15/tk-vierde-rapportage-uitreizigers>.

⁷ Netherlands Public Prosecution Service, “National Office,”

<https://www.prosecutionservice.nl/organisation/national-office>.

⁸ Furthermore, the prosecutor can also decide not to prosecute for technical reasons, such as lack of evidence, if no criminal offence has been committed or if the suspect has wrongly been identified as perpetrator. Openbaar Ministerie, “Aanwijzing spot en gebruik sepotgronden,” *Staatscourant van het Koninkrijk der Nederlanden* 62570, 31 December, 2020. <https://zoek.officielebekendmakingen.nl/stcrt-2020-62570.html>.

⁹ Algemene Inlichtingen- en Veiligheidsdienst, “Leven by ISIS, de mythe ontrafeld,” Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 12 January 2016,

<https://www.aivd.nl/documenten/publicaties/2016/01/12/aivd-publicatie-leven-bij-isis-de-mythe-ontrafeld>.

¹⁰ Renard and Coolsaet, “Returnees: who are they, why are they (not) coming back and how should we deal with them?” p. 62.

¹¹ See also, Openbaar Ministerie, “Strafeisen van 3,5 tot 4 jaar voor vrouwen verdacht van deelname aan IS,” Nieuwsbericht, 16 March 2023, available at <https://www.om.nl/actueel/nieuws/2023/03/16/strafeisen-van-35-tot-4-jaar-voor-vrouwen-verdacht-van-deelname-aan-is>.

¹² Landelijk Parket, “OM pakt IS-terugkeerders met een missie aan.” YouTube video, 2:31. February 15, 2017. <https://www.youtube.com/watch?v=vFodBpZTK28>.

¹³ Tanya Mehra, “The Repatriation of Five Women and Eleven Children from Syria: A Turning Point in the Netherlands?” Perspective, International Centre for Counter-Terrorism, 11 February 2022.

<https://www.icct.nl/publication/repatriation-five-women-and-eleven-children-syria-turning-point-netherlands>.

¹⁴ Case 71/148283-21, *Ilham B.*, District Court Rotterdam, Judgment, 1 June 2022.

<https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBROT:2022:4257&showbutton=true&keyword=71%252f148283-21&idx=1>.

¹⁵ See Case *Context*, District Court The Hague, Judgment, 10 December 2015, ¶ 7.38-7.40.

<https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBDHA:2015:14365>.

¹⁶ Case 09/748012-19; 09/748012-19-P, *Yoursa L.*, District Court The Hague, Judgment, 29 June 2021.

<https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBDHA:2021:6620&showbutton=true&keyword=09%252f748012-19%253b%2B09%252f748012-19-P&idx=2%20%20https:%2F%2Fuitspraken.rechtspraak.nl%2F>.

¹⁷ See Article 83a2, Wetboek van Strafrecht [Criminal Code of the Netherlands].

<https://wetten.overheid.nl/BWBR0001854/2018-07-01/0/BoekEerste/TiteldeelIX/Artikel83a/afdrukken>.

¹⁸ See Case 21/01122, Supreme Court of the Netherlands, Judgment, 1 November 2022, ¶28.

<https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:PHR:2022:1014>.

¹⁹ Case 21/01312, Supreme Court of The Netherlands, Judgment, 5 July 2022.

<https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:HR:2022:970>.

²⁰ Case 10/960288-16, *Laura H.*, District Court Rotterdam, Judgment, 13 November 2017.

<https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBROT:2017:8858>.

- ²¹ Case 10/960091-16, District Court Rotterdam, Judgment, 19 March 2020. <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBROT:2020:2546&showbutton=true&keyword=poging%2Btot%2Breizen,terrorisme&idx=30>.
- ²² Case 10/960091-16, *Ibid.*; Case 03/721031-16; 03/702658-17, District Court Limburg, Judgment, 19 December 2017, <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBLIM:2017:12404&showbutton=true&keyword=03%252f721031-16%253b%2B03%252f702658-17&idx=1>; Case 71/028979-22, *Naima S.*, District Court Rotterdam, Judgment, 13 April 2023. <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBROT:2023:3081&showbutton=true&keyword=&idx=2>.
- ²³ Case 71/028979-22, *Naima S.*, *Ibid.*
- ²⁴ Rijksoverheid, “Ministerraad stemt in met hoger strafmaximum voor deelbeming aan een terroristische organisatie,” Nieuwsbericht, 27 October 2023. <https://www.rijksoverheid.nl/actueel/nieuws/2023/10/27/ministerraad-stemt-in-met-hoger-strafmaximum-voor-deelneming-aan-een-terroristische-organisatie#:~:text=Op%20dit%20moment%20geldt%20een,circa%20tweintig%20jaar%20hebben%20voorgedaan.>
- ²⁵ Case 10/960104-16, *Fatima H.*, District Court Rotterdam, Judgment, 12 April 2021. <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBROT:2021:3131>.
- ²⁶ Ministerie van Justitie en Veiligheid, “Wet straffen en beschermen,” 2021. <https://www.dji.nl/justitiabelen/volwassenen-in-detentie/wet-straffen-en-beschermen>.
- ²⁷ Ruth Kats, Beatrice de Graaf and Pauline Jacobs, “Terroristen in detentie. Een overzicht van de ontwikkeling en discussie over de terroristenafdelingen in Nederland, 2004-2022,” in *Terugkeer en re-integratie van ex-Syriegangers*, Ministerie van Justitie en Veiligheid, November 2022, p. 4. https://repository.wodc.nl/bitstream/handle/20.500.12832/3219/JV202203_volledige-tekst.pdf?sequence=1&isAllowed=y.
- ²⁸ Rijkswet op het Nederlanderschap [Dutch Nationality Act], <https://wetten.overheid.nl/BWBR0003738/2022-04-01>.
- ²⁹ Ministerie van Veiligheid en Justitie, “Besluit van de Minister van Veiligheid en Justitie van 2 maart 2017, nr. 2050307, tot vaststelling van de lijst met organisaties die een bedreiging vormen voor de nationale veiligheid,” *Staatscourant van het Koninkrijk der Nederlanden* 13023, 10 March 2017. <https://zoek.officielebekendmakingen.nl/stcrt-2017-13023.html>.
- ³⁰ See Article 68c, Besluit verkrijging en verlies Nederlanderschap [Decision on acquisition and loss of Dutch citizenship], <https://wetten.overheid.nl/BWBR0013605/2017-03-01>. In reaching a decision to revoke nationality, the Minister should take into the account the proportionality of the decision, the impact it can have on investigations and criminal proceedings. Furthermore, if the revocation decision and subsequent return decision would violate the right to a private and family life, this is too would be a ground not to revoke the Dutch nationality.
- ³¹ Ministerie van Justitie en Veiligheid, “Penitentiaire Inrichting Ter Apel,” Dienst Justitiele Inrichtingen. <https://www.dji.nl/locaties/t/pi-ter-apel>.
- ³² “Daarbij staat voorop, dat het terroristisch oogmerk niet hetzelfde is als iemands ideologische of religieuze motief, hoewel dit motief wel een rol kan spelen in het bewijs van het terroristisch oogmerk. Het gaat er met name om welk effect de verdachte met een gedraging wilde bereiken en dus niet om de vraag waarom de daad wordt gepleegd.” Case 16/659055-19, District Court Midden-Nederland, Judgment, 20 March 2020, sub-heading 5.3.1.3. https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBMNE:2020:1046&showbutton=true&keyword=terroris*%2Bhoogmerk%2Bmotief%2Bduiding&idx=1.
- ³³ Ministerie van Justitie en Veiligheid, “Violent Extremism Risk Assessment 2 Revised,” Dienst Justitiele Inrichtingen. <https://www.vera-2r.nl>.
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- ³⁶ Case 10/960252-16, *Siobhan W.*, District Court Rotterdam, Judgment, 19 August 2021. <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBROT:2021:8157&showbutton=true>.
- ³⁷ Elaine Rodermond, Romi Zalmé and Esther Zuiderveld, “Re-integratie en recidive na een verblijf op de TA,” Nederlands Studiecencentrum Criminaliteit en Rechtshandhaving, 2021. https://nscr.nl/app/uploads/2021/10/Rapport-Re-integratie-en-Recidive-na-TA_271021.pdf; Thomas Renard, “Overblown: Exploring the Gap Between the Fear of Terrorist Recidivism and the Evidence,” *CTC Sentinel*, 13(4), April 2020, pp. 19-29. <https://ctc.westpoint.edu/overblown-exploring-the-gap-between-the-fear-of-terrorist-recidivism-and-the-evidence/>.
- ³⁸ Case 10/996668-17, District Court Rotterdam, Judgment, 3 February 2021. <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBROT:2021:720&showbutton=true&keyword=10%252f996668-17&idx=1>.
- ³⁹ Rodermond et al., “Re-integratie en recidive na een verblijf op de TA”.
- ⁴⁰ NOS Nieuws, “Terroristenafdeling in vrouwengevangenis Zwolle breidt uit,” 14 December 2022. <https://nos.nl/artikel/2456385-terroristenafdeling-in-vrouwengevangenis-zwolle-breidt-uit>.
- ⁴¹ Kats et al., “Terroristen in detentie. Een overzicht van de ontwikkeling en discussie over de terroristenafdelingen in Nederland, 2004-2022”.
- ⁴² Based on an interview with prison official.
- ⁴³ See Article 40a, Regeling tijdelijk verlaten van de inrichting [Regulations for temporarily leaving the institution]. <https://wetten.overheid.nl/BWBR0010171/2021-12-01/#Hoofdstuk5>.
- ⁴⁴ Tweedekamer, “Verslag van een schriftelijk overleg over de reactie op verzoek commissie over Nederlandse uitreizigers in Syrië,” Kamerstuk 29754-650, 22 November, 2022. <https://www.tweedekamer.nl/kamerstukken/detail?id=2022D48646&did=2022D48646>.
- ⁴⁵ In practice, the Dutch Probation Service already informs the court of these steps in their ‘Advise’ prior to the deprivation order after a criminal conviction. The Dutch Probation Service believes that a person should be supervised by Repatriation and Departure Service of the Ministry of Justice and Security. Interview 18 December 2023.
- ⁴⁶ Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, “Zorg- en Veiligheidshuizen.” https://www.regioatlas.nl/regioindelingen/regioindelingen_indeling/t/zorg_en_veiligheidshuizen.
- ⁴⁷ Ministerie voor Veiligheid en Justitie, “Evaluatie van het actieplan integrale aanpak jihadisme,” Inspectie voor Veiligheid en Justitie, 15 September 2017. <https://www.inspectie-jenv.nl/Publicaties/rapporten/2017/09/06/evaluatie-van-het-actieprogramma-integrale-aanpak-jihadisme>.
- ⁴⁸ Tweedekamer, “Wet gegevensverwerking persoonsgerichte aanpak radicalisering en terroristische activiteiten,” Wetsvoorstel 36225, 15 October 2022. <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?qry=wetsvoorstel%3A36225&cfg=wetsvoorsteldetails#wetgevingsproces>.
- ⁴⁹ Rodermond et al., “Re-integratie en recidive na een verblijf op de TA”.
- ⁵⁰ Ministerie van Justitie en Veiligheid, “Brief naar aanleiding van mondelinge vragen over de VOG die werd verleend aan veroordeelde IS-ganger,” 26 October 2023. <https://open.overheid.nl/documenten/dpc-b583733f35a46cc3be0d4b02d752259dcfcb45e9/pdf>.

Managing Female Violent Extremist Offenders in Europe: A Data-driven Comparative Analysis

Tanya Mehra, Thomas Renard, and Merlina Herbach

This book compiled data on 277 female violent extremist offenders (VEOs), prosecuted in four countries: Belgium, France, Germany, and the Netherlands. These women were generally quite young at the time of their first terrorist offence, on average 24.8 years old,ⁱ which does not seem to significantly differ from the average age of male terrorist offenders.¹

The vast majority of the female VEOs in the sample have the nationality of the prosecuting country (sometimes alongside a second nationality). Only in a small minority of cases, these women did not have citizenship of the prosecuting country, which is again consistent with previous findings on male terrorist offenders.²

While female VEOs were mainly mediated as “jihadi brides” in relation to their (attempted) travel to join the Islamic State in Syria and Iraq (ISIS), our sample actually covers a larger spectrum of violent extremist offenders. Based on 283 prosecuted cases (as a few women were prosecuted twice), 52 percent travelled to the conflict zone, 16.5 percent attempted but failed to reach the conflict zone, and 31.5 percent did not attempt to travel.ⁱⁱ Although female VEOs who spent time in the conflict zone represent a significant share of our sample, there are also women who were convicted for terrorist activities committed in Europe, notably plotting, recruitment, propaganda or financing. Furthermore, beyond the traditional image of women as victims or lacking agency, this research suggests that many women deliberately sought to join a terrorist organisation. In some rare cases, women were even considered to lead the radicalisation process in the family, in contrast with the general perception that men are the most radical family members.

The vast majority (91.5 percent)ⁱⁱⁱ of the female VEOs in our sample were affiliated with ISIS at some point, again confirming the massive power of attraction that ISIS had on certain European youth. Furthermore, the “family-friendly” jihad promoted by ISIS, with its so-called caliphate, and its active recruitment of Western women, through targeted propaganda, all contributed to the unprecedented number of women radicalising into jihadi terrorism.

ⁱ The average age was calculated on the basis of 222 convicted individuals, removing the acquittals and cases where information was missing.

ⁱⁱ Percentages were calculated on the basis of 277 prosecution cases, as information was missing for six cases.

ⁱⁱⁱ Information was available for 266 cases. The ratio is calculated excluding missing cases.

Consistent with the peak of ISIS activities, 93.5 percent of the female VEOs in our dataset were involved in terrorist activities during (parts of) the period 2014-2017, based on their indictment period. The indictment period in our dataset ranged between April 2011 and June 2022. On average, the length of indictment was of two years, three months, and four weeks (28.9 months).

Prosecution

Prosecutorial Strategy

The number of trials of female VEOs increased significantly over time in all four countries covered in this book, more specifically between 2016 and 2019. Although the sample does not include all trials as there was no data available for trials of female VEOs in France before 2017, Figure 6.1 below illustrates well the shift towards the more systematic prosecution of female VEOs, and particularly returnees. While several women were tried in 2014-2015, in particular in Belgium, a clear shift occurred around 2015-2016 in Belgium, France, and the Netherlands. In Germany, it was not until 2018 that female returnees became systematically prosecuted.

Initially, women were regarded mainly as victims, as vulnerable individuals lured into jihad by manipulative men, and as harmless. Therefore, many female returnees from the first wave were not arrested, and very few were prosecuted before 2015. This perception started to evolve against the background of the wave of terrorist attacks in Europe, starting in 2014. These attacks fundamentally changed the threat perception of men that travelled to Syria and Iraq to join ISIS or other terrorist organisations, and – later – of female VEOs. The perception of female VEOs as a potential threat became even more tangible with the first all-female (failed) terrorist attack in France, in 2016. Between 2014 and 2016, women had been involved in at least seventeen terrorist plots in Europe, mainly in France, Germany, and the UK.³

Alongside this evolving threat perception, relevant authorities started to pay closer attention to female VEOs, leading to a better understanding of their profiles, motivations, roles, and influence. This led to the opening of more systematic prosecution, as well as the building of necessary expertise among criminal justice actors. The systematic prosecution of female VEOs was further facilitated by two factors. First, national prosecutors successfully argued, case after case, that women who joined terrorist organisations in the conflict zone could be considered as part of a terrorist group. It is now established jurisprudence that even through their mostly domestic tasks, they knowingly supported and facilitated the explicit terrorist activities of their husbands, thereby contributing to the overall aim of the organisation. Second, new terrorist offences were adopted, and relevant case law expanded the scope of what constitutes a contribution to a terrorist organisation, hence expanding the tools to successfully prosecute alleged VEOs.

After the territorial defeat of ISIS, even more information became available about the different roles played by women within ISIS. In particular, mechanisms such as the United Nations Investigative Team for Accountability of Da'esh/ISIL (UNITAD) and the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab

COMPARATIVE ANALYSIS

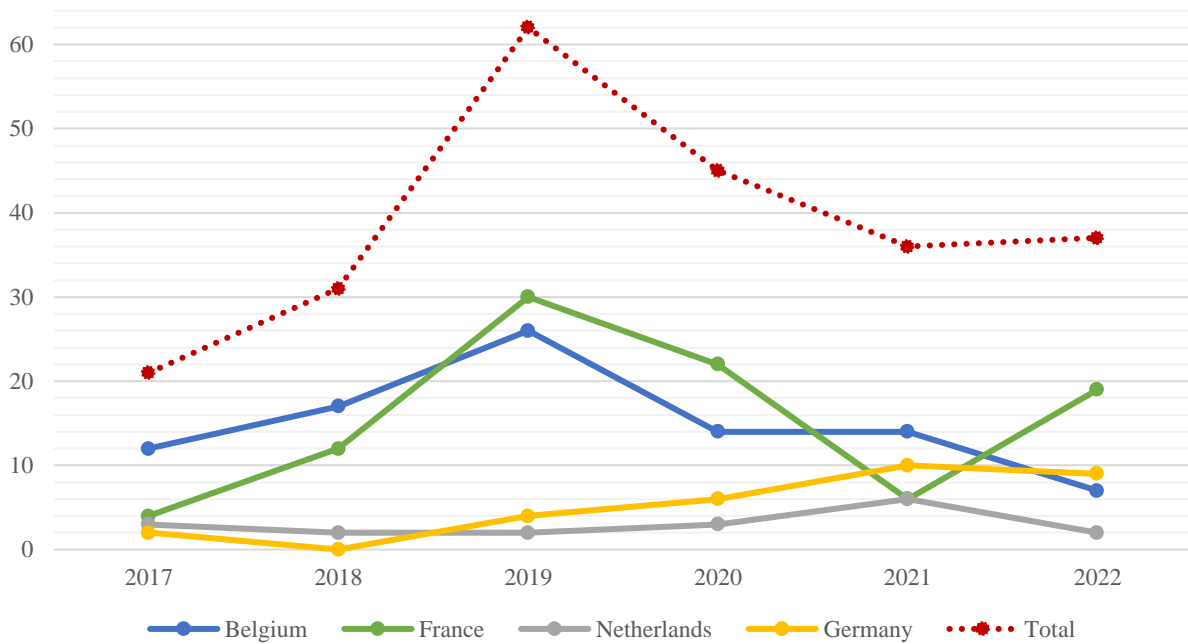


Figure 6.1: Number of first instance verdicts for female VEOs over time in Belgium, France, Germany, and the Netherlands (n(t)=268; as of 31 December 2022).

Republic since March 2011 (IIIM) have collected and preserved evidence and assisted prosecutors in several European countries. As a more accurate and complete picture is becoming available about the different activities of women within these terrorist organisations, the charges are being expanded to include other offences such as child neglect and other domestic offences or core international crimes as can be seen in Germany and the Netherlands. Overall, it seems that a majority of the female returnees in the countries covered by this book have now been prosecuted. In France, some sources suggest that at least two thirds of female returnees have been prosecuted (on an estimated number of 150 female returnees).⁴ In the Netherlands, up to three quarters of the female returnees have been prosecuted or are under investigation (on an estimated number of 41 female returnees). In Germany, data is incomplete, but suggests that almost half of the female returnees have been prosecuted, at least. In Belgium, about two thirds of the women who travelled to Syria and Iraq – or were arrested en route – have been prosecuted. The Belgian chapter in this book even suggests that the rate of prosecution is likely higher when applied to all female VEOs.

Collection of Evidence and Investigation Strategies

Structural investigation is an investigation method that can be useful to collect information and evidence in large and complex cases, without having identified suspects. This method can be helpful when there is a large number of victims and multiple crimes are being committed by a variety of actors, including by terrorist organisations. Structural investigations are pro-active and try to establish certain patterns and structures which can later be used to build on individual cases once specific alleged perpetrators have been identified. Countries like Germany, France, and Sweden have been using structural investigations in the context of the conflict in Syria.⁵

One of the advantages of structural investigations is that it saves time as some of the contextual elements of core international crimes can be established prior to identifying individual perpetrators. Furthermore, applying structural investigations does not require any amendments to domestic laws.

Establishing joint investigation teams (JITs) – a formal cooperation between law enforcement, prosecutors and sometimes judges – can be helpful in effectively investigating and prosecuting complex cases. In the summer of 2023, Belgium and the Netherlands joined a JIT that was initially established by Sweden and France to investigate core international crimes potentially committed by foreign fighters against the Yazidi population in Syria and Iraq.⁶

As mentioned above, IIM and UNITAD are both unique, UN mandated mechanisms that collect, store, and analyse evidence for criminal prosecutions, and also support structural investigations to facilitate prosecutions.⁷ However, while prosecutors can benefit from information deriving from IIM and UNITAD, defence counsels do not have individual access and cannot directly request information from IIM and UNITAD, raising potential concerns of equality of arms as it may impact the ability of the defence to challenge the evidence during the trial.⁸ Defence counsels also struggle with obtaining foreign documents and necessary translations to prepare their cases. In addition, women have often already been exposed to media, which affects the public's perception of them before and during trial.

Other factors that have contributed to the successful prosecution of the so-called foreign fighters, are the use of “battlefield evidence”, and the proliferation of civil society organisation (CSOs) involved in pursuing accountability in the context of female returnees.

Several European countries have indicated that their criminal justice actors receive information collected by the military from the conflict zone. This information can be collected by foreign military, most notably by the United States (US) forces, or by coalition forces such as the Global Coalition against Daesh.⁹ Operation Gallant Phoenix is another cooperation mechanism led by the US that facilitates the sharing of information which has been collected from the conflict zone, also referred to as battlefield evidence.¹⁰ Information collected from the conflict zone has been used in several criminal proceedings against persons who travelled to Syria or Iraq to join a terrorist group. In the case against Ilham B., a special Federal Bureau of Investigation (FBI) agent has interrogated her husband – then detained in Iraq – who stated that Ilham B. had joined Khatiba Nusaybah. The special agent of the FBI testified during trial but since there was no further information supporting that Ilham B. had joined Khatiba Nusaybah she was acquitted of this charge. While battlefield evidence can be used in court, it can also be criticised because it restricts the ability of the defence to challenge this evidence and thus impacts the principle of equality of arms.¹¹

The proliferation of CSOs engaged in advancing accountability for crimes, in particular international crimes committed in Syria and Iraq has also contributed to the prosecution of alleged terrorists, including returnees. Some are only engaged in documentation, others represent victims and are engaged in strategic litigation such as Civitas Maxima, the European Center for Constitutional and Human Rights (ECCHR), or the International Federation for Human Rights (FIDH). These CSOs support victims and help to file a criminal complaint. While the majority of criminal complaints are still pending, in a number of cases this has led to arrest warrants and prosecutions.¹² Other organisations such as Bellingcat and the Commission for International Justice and Accountability (CIJA) are more engaged in collecting (digital) evidence.

Cumulative Charging

All women in our dataset were charged for terrorism, but some were also charged for other domestic offences or core international crimes. Cumulative charging for terrorist offences and other crimes contributes to holding alleged perpetrators accountable for the full range of crimes they have committed.

A closer look at our sample of court decisions, however, unveils considerable differences between the four countries. In Germany 75 percent of the first instance verdicts concerning female VEOs included domestic charges, such as violation of weapons laws, or child neglect, in addition to terrorism offences in the indictment. The rates in Belgium, France, and the Netherlands are much lower. Only 14.3 percent of the indictments filed in the Netherlands included domestic charges, 7.6 percent of the indictments in Belgium, and 10.6 percent in France.

Another possibility is to cumulatively charge for terrorist offences and core international crimes, which are war crimes, crimes against humanity, and genocide. It is well-known that in addition to murder, torture, and indiscriminate attacks, ISIS has been involved in looting of private property and systematically committing sexual and gender-based violent (SGBV) crimes, notably against the Yazidi population.¹³

So far, only the Netherlands and Germany have cumulatively charged female returnees and VEOs for terrorist offences and core international crimes. Notably in the Netherlands, Yousra L. has been convicted for the war crime of outrage upon personal dignity, committed from within the Netherlands as she was sharing videos of executions carried out by terrorist and added her own degrading remarks (see case study at end of chapter). In the Netherlands, two women are being prosecuted since February 2023 for the alleged crimes of pillaging as a war crime and enslavement as a crime against humanity.¹⁴ While this is the only such conviction in the Netherlands so far, nineteen women in Germany were convicted of core international crimes in 20 cases, either in combination with terrorist offences and domestic crimes, or solely in combination with terrorist offences as can be seen in Figure 6.2.^{iv}

Belgium and France have not yet resorted to this option, although things could evolve in the future. In Belgium, the interpretation of the exclusion clause which determines the relationship between terrorism and international humanitarian law has been a long and complicated journey and has thus far prevented cumulatively charging for terrorist offences and war crimes.^v However, recent case law could change this interpretation.¹⁵ In France, no indictments have been filed for terrorist offences and international crimes cumulatively against female returnees,

^{iv} Core international crimes for which female returnees have been convicted in Germany include war crimes, crimes against humanity, and more recently also genocide. For more information about individual charges, see pp. 66.

^v The courts have ruled that not all non-state armed groups such as Jabhat al-Nusra meet the organisation threshold of a non-state armed group which basically means that IHL does not apply, and members could only be prosecuted for terrorist offences. With respect to ISIS, the courts now seem to recognise that they are a non-state actor in a non-international armed conflict *and* a terrorist group. However, it depends on the type of activities and the nexus to the armed conflict to determine whether certain activities cannot be prosecuted as terrorist offences. A concrete example is the case of female returnee Y.S. which demonstrates her recruiting activities are not directly linked to the hostilities and were thus prosecuted as terrorist offences. This does not prevent the prosecution of alleged terrorist for terrorist offences and crimes against humanity or genocide in Belgium. It is worth noting that a revision of article 141bis is under consideration. See Thomas Van Poecke, "The IHL Exclusion Clause, and why Belgian Courts Refuse to Convict PKK Members for Terrorist Offences," EJIL: Talk!, 20 March 2019, <https://www.ejiltalk.org/the-ihl-exclusion-clause-and-why-belgian-courts-refuse-to-convict-pkk-members-for-terrorist-offences/>.

although several investigations are on-going.¹⁶ There are various reasons for a lack of prosecution for core international crimes in France, which include, inter alia, institutional barriers that prevent the prosecution of core international crimes, and a strong reliance on terrorism offences that allows for the use of special investigation techniques and relatively long sentences for terrorist offences.^{vi} In short, terrorism trials are considered more effective and less complex. A noteworthy recent evolution was the broadened interpretation of the universal jurisdiction principle in two recent rulings by the *Cour de Cassation* in May 2023 which might ease the prosecution of foreign citizens in France for core international crimes.^{vii}

So far only women who joined ISIS were sentenced for core international crimes, but such crimes are also being committed by other terrorist groups. The Independent International Commission of Inquiry on the Syrian Arab Republic (CoI on Syria) has reported that other designated terrorist groups such as Hay'at Tahrir al-Sham, Jabhat Fatah al-Sham, or Ansar al-Sham have also committed war crimes in the conflict in Syria.¹⁷ Additionally, several of the crimes committed by these organisations could also amount to crimes against humanity or genocide.

When cumulative charging is being applied, it could constitute a violation of the *ne bis in idem* principle, which prohibits a person from being prosecuted twice for the same crime and is prohibited under article 4 of Protocol No 7 of the European Convention on Human Rights (ECHR). The aim of the *ne bis in idem* principle is to provide protection to an individual from being tried twice and ensure respect for the finality of a decision, referred to as *res judicata*. The *ne bis in idem* principle consists of different components, of which relevant here is the *idem* part, which refers to same acts. To determine whether this principle is violated when prosecuting female returnees or VEOs this can be further broken down into:

- Do both charges/proceedings concern the same underlying facts?
- Do both charges/proceedings concern the same legal qualifications?
- Do both the charges/proceedings concern the same protected legal interests?

In the context of prosecuting female returnees, it is important to note that when a woman has been tried in absentia, she may be entitled to re-trial which does not constitute a violation of *ne bis in idem* principle. Terrorist offences and core international crimes can be based on the same underlying facts but could also rely on different underlying facts. Relying on the same underlying facts does not necessarily lead to a violation of the *ne bis in idem* principle if the elements of the crimes are different, or if the criminal offences safeguard different protected

^{vi} While the prosecution of international crimes unit is now brought under the anti-terrorism unit, the adjudication of terrorism and core international crimes takes place in different courts with different procedures.

^{vii} Under universal jurisdiction, a court could try a person regardless of where the crimes were committed and regardless of the nationality of the victims and perpetrators. In France, courts can only prosecute individuals under universal jurisdiction if the double criminality requirement is met, meaning that the crimes that have allegedly been committed abroad can only be prosecuted in France if the crimes were also criminalised in the State where the offence has been committed. The *Cour de Cassation* ruled that the double criminality does not mean that the offence needs to be criminalised in the exact same manner. Furthermore, in the second ruling the *Cour de Cassation* ruled that jurisdiction is limited to situations where the suspect habitually resides in France should not be defined too narrowly. Roger Lu Phillips, "2nd Time's the Charm: France's *Cour de Cassation* Broadens Universal Jurisdiction Law," *Just Security*, 24 May 2023, <https://www.justsecurity.org/86689/2nd-times-the-charm-frances-cour-de-cassation-broadens-universal-jurisdiction-law/>; *Cour de Cassation*, "Universal jurisdiction of French justice for crimes committed in Syria," Press release, 12 May 2023, <https://www.courdecassation.fr/en/toutes-les-actualites/2023/05/12/press-release-universal-jurisdiction-french-justice-crimes>.

COMPARATIVE ANALYSIS

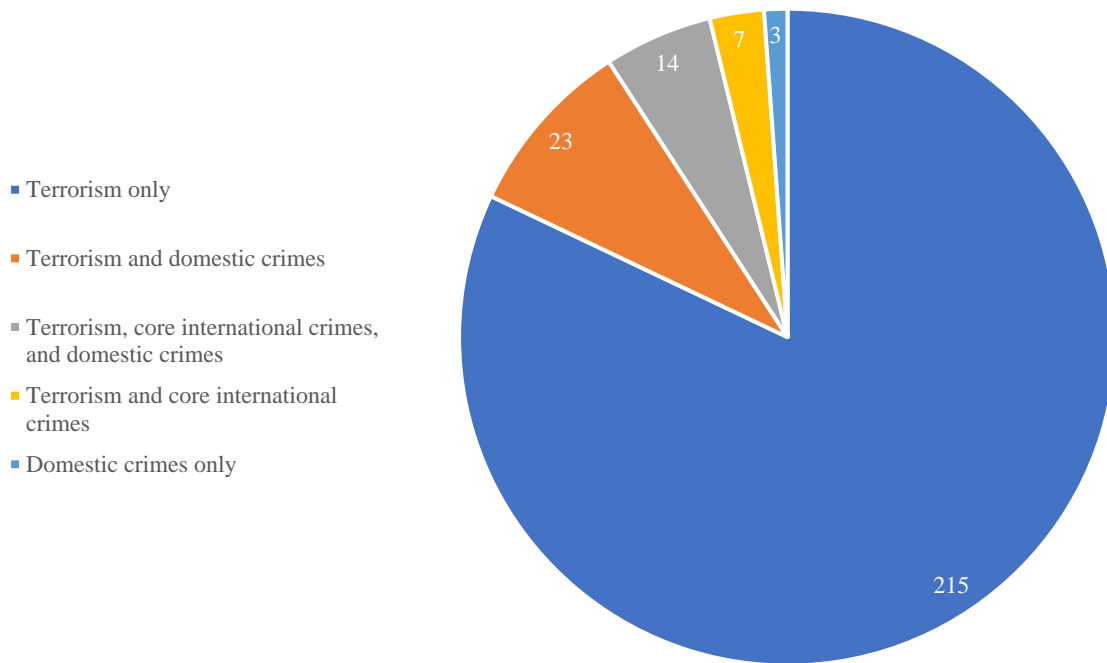


Figure 6.2: (Cumulative) convictions against female VEOS in Belgium, France, Germany, and the Netherlands (n(BE)=120, n(FRA)=94, n(GER)=41, n(NL)=28; as of 15 July 2023.)

legal interests. Such a protected legal interest could be national security when it relates to domestic terrorism charges or values of concern to the international community when it relates to core international crimes charges. When the same conduct leads to two offences, this does not necessarily mean that the accused will be sentenced in full for both offences. In accordance with domestic laws, a judge will take the fact that a certain conduct qualifies as two or more distinct offences into consideration during sentencing. Prosecutors would need to consider when it would be appropriate to rely on the same facts or not when laying charges.

Trials in Absentia

When a trial is held in absentia, court proceedings are conducted without the defendant(s) being present in person or online, such as in the case of women still in Syria. Several European countries allow for trials in absentia, as it is considered to be in the interest of justice to hold perpetrators accountable even if they are not present at trial.¹⁸ This is all the more relevant as a number of women have specifically refused to be repatriated, including among residents from the countries covered in this book. While it may not be possible to enforce the sentence when the accused is not present at trial or when the judgement is rendered, a conviction can help to establish historical record, provide some sense of justice to victims, and allow them to seek remedies. Furthermore, when a person is convicted in absentia and then returns, they can immediately be imprisoned. In fact, arrest warrants have been issued against most of the women in Syria and Iraq, meaning that when they return to their home country they will be arrested and placed under pre-trial detention until trial.

However, trials in absentia can be seen as violating the accused's right to a fair trial, specifically their right to be present at trial, the right to defend oneself, as well as the ability to examine the witnesses and to select a defence counsel. Hence, international law does not exclude trials in

absentia per se, but certain procedural safeguards need to be met, including proper notification, presence of a defence counsel, and possibility for retrial.¹⁹ On a regional level, EU Directive 2016/343 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings aims to enhance the right to a fair trial in criminal proceedings across EU Member States.²⁰

In Germany, the general rule is that the accused has to be present at trial. Only in very narrow circumstances are trials in absentia permitted when the court discharges the accused of the obligation to be present at trial after the accused intentionally caused a condition precluding them from being able to stand trial, or when the accused is considered to have waived his or her right to appear after being properly summoned regarding a criminal prosecution of a minor offence.²¹ This is not applicable to female VEOs given that they were prosecuted for serious offences, including terrorism charges and core international crimes.

In France and Belgium, it is possible to conduct a trial and render a judgment without the presence of the defendant. In Belgium, 50 female VEOs have been tried and convicted in absentia. They received an average sentence of four years and nine months for membership in a terrorist organisation. Several of the women were presumably dead when tried in absentia, but without a death certificate prosecution can still take place. Others were in Syria or Iraq at the time of trial. According to article 187 of the Belgian Code of Criminal Procedure a person is entitled to retrial before the same court if he or she has filed opposition within fifteen days of the notification of the conviction. Only four cases that were initially tried in absentia were re-opened after the defendant had returned to Belgium. In two cases, the sentences were reduced from 60 months' imprisonment to 40- and 30-months imprisonment respectively. In the case of H.B., the re-trial led to a suspension of the initial 30 months' imprisonment. In February 2023, N.F. was acquitted on all counts of membership in a terrorist organisation after her return to Belgium, as the court found that she was a minor upon departure. Before returning to Belgium, she had been convicted in absentia for membership in a terrorist organisation and sentenced to 60 months' imprisonment.

In France, in the sample of 94 cases, five female VEOs have been convicted in absentia and were all sentenced to ten years imprisonment.²² In cases where the absent defendant has appointed a counsel or where co-defendants are present, these trials in absentia take place in court pursuant to regular procedure. In cases where there are no co-defendants present and the absent defendant has not appointed a counsel, the case will be decided after merely hearing the prosecution and civil parties where applicable. In cases where the defendant remains absent after the announcement of the judgment, they have five days to file an appeal with the *Cour de Cassation*, counting from the day that the judgment came to the attention of the defendant. Should the defendant surrender or be otherwise taken in custody within one month after the announcement of judgment in absentia, the defendant can request a re-trial of the case at the *Cour d'assises*.²³

In the Netherlands, trials in absentia are permitted, but the use of this type of trial has taken an unexpected turn. As of early 2017, it was the policy of the Dutch Prosecutor to start criminal investigations against all Dutch persons – men and women – who were still considered to be in Syria and Iraq to avoid impunity and to reduce the duration on potential lengthy extension of pre-trial detention for the accused once they are back in the Netherlands.²⁴ One of the conditions of trials in absentia is that the prosecutor needs to notify the accused of the trial. As this notification could not take place in the traditional manner by sending a letter to a known Dutch address for women remaining in Syria or Iraq, the prosecutor informed the accused through social media of the start of the trial. The purpose of the notification is to allow the

accused to avail their right to attend the trial. Several Dutch women who were in al-Hol camp have been notified of the proceedings against them in the Netherlands indeed availed their right to be present at trial. As a result the court would stay the proceedings to allow the accused to attend the trial. Since no progress was made to allow these women to attend their trials, the court considered terminating their proceedings. To avoid impunity, the Dutch government repatriated these women so they could stand trial.²⁵ The first of these women, Ilham B., was convicted for terrorist offences in June 2022,²⁶ and five other female returnees have been convicted and their cases are pending appeal. Another twelve female returnees were repatriated in November 2022 and arrested upon arrival. They are likely to stand trial in 2024, following the first pro-forma hearings in 2023. In December 2023, the courts also decided to stay the proceedings against two women and – for the first time – a male for six months while they are still detained in the camps and prison in Syria.

Sentencing

Over the past years, most states have amended their legislation and expanded the number of terrorist offences. The EU Directive 2017/541 of 15 March 2017 on combating terrorism was adopted with the aim to implement United Nations Security Council Resolution (UNSCR) 2178 (2017) and create more consistency in the EU's response to terrorism by introducing harmonised definitions and a range of new terrorist offences, such as training and travel for terrorist purposes.

Most Common Terrorist Offence: Membership in a Terrorist Organisation

Looking closely at the sample of prosecuted female VEOs across the four countries, and as shown in Figure 6.3 below, it is evident that the most common offence used to charge and convict female VEOs is membership in a terrorist organisation (78.3 percent of all terrorism convictions). In Belgium, this represents 85.5 percent of all terrorism convictions, in France 81.2 percent, and in Germany 82.5 percent. The Netherlands is an exception in this case, as membership only represents 40 percent of all terrorism convictions of female VEOs. Belgium, France, and the Netherlands each relied on a variety of different types of offences in prosecuting female VEOs, although with some variation. In Belgium, the second most common offence is travel for terrorist purposes, in France it is terrorism financing, and in the Netherlands, it is preparation of terrorist crimes. In Germany, the only other offence that has been used is support to a terrorist organisation. This reflects a less significant contribution to the overall aim of the terrorist organisation than what is required to find someone a member of a terrorist organisation, such as, for example, financing of a terrorist organisation. Figure 6.3 further shows that not all terrorist offences have been prosecuted equally successfully in the four countries. Notably, women charged with recruitment for a terrorist organisation were all acquitted in the Netherlands, and only half of the cases led to a conviction in Belgium. At the same time, the conviction rate for membership in a terrorist organisation is at 91 percent for all countries combined, while financing of terrorist organisation led to a respective conviction in 77.8 percent of the cases prosecuted in France and the Netherlands.

Offences		Total	Belgium	France	Germany	Netherlands
Membership in a Terrorist Organisation	Charged	257 cases	116 cases	84 cases	34 cases	23 cases
	Convicted	235 cases	106 cases	82 cases	33 cases	14 cases
Preparation of Terrorist Crimes	Charged	20 cases	3 cases	-	3 cases	14 cases
	Convicted	15 cases	1 case	-	-	14 cases
Terrorism Financing	Charged	18 cases	-	14 cases	-	4 cases
	Convicted	14 cases	-	12 cases	-	2 cases
Incitement to Terrorism	Charged	12 cases	5 cases	2 cases	-	5 cases
	Convicted	9 cases	4 cases	2 cases	-	3 cases
Travel to Commit Terrorist Crimes	Charged	10 cases	10 cases	-	-	-
	Convicted	9 cases	9 cases	-	-	-
Support of a Terrorist Organisation	Charged	8 cases	-	-	7 cases	1 case
	Convicted	8 cases	-	-	7 cases	1 case
Recruitment for a Terrorist Organisation	Charged	8 cases	6 cases	-	-	2 cases
	Convicted	3 cases	3 cases	-	-	-
Terrorist Propaganda	Charged	3 cases	-	3 cases	-	-
	Convicted	3 cases	-	3 cases	-	-
Preparing a Terrorist Explosion	Charged	3 cases	-	1 case	-	2 cases
	Convicted	1 case	-	1 case	-	-
Leading a Terrorist Organisation	Charged	3 cases	3 cases	-	-	-
	Convicted	1 case	1 case	-	-	-
Threat to Commit Terrorist Crimes	Charged	2 cases	2 cases	-	-	-
	Convicted	-	-	-	-	-
Terrorist Killings	Charged	1 case	-	1 case	-	-
	Convicted	1 case	-	1 case	-	-
Participation in Terrorist Training	Charged	1 case	-	-	-	1 case
	Convicted	1 case	-	-	-	1 case

Figure 6.3: Terrorism charges filed and convicted in cases of female returnees and VEOs in Belgium, France, Germany, and the Netherlands (n(FRA)=94; n(GER)=41; n(NL)=28; n(BE)=120; as of 15 July 2023).

There are several distinctions between the four countries regarding the offence of membership in a terrorist organisation, yet some common features and drawbacks can be identified. In Germany and the Netherlands, the offence is based on the domestic offence of participation in a criminal organisation, whereas in France the “association of wrongdoing with respect to a terrorist offence” resembles rather a conspiracy offence.²⁷ Commonly, the offence of membership in a terrorist organisation contains three elements: a structured or organised group with a terrorist aim; a material element; and a mental element.

A Structured or Organised Group with Terrorist Aim

A group is composed of a minimum of two persons, with no need to have clear roles or defined tasks within the group. A certain level of continuity is needed to meet the constitutive requirement of a structured organisation.

The terrorist aim of the group can derive from international listings by the UN or the EU, or from national lists of terror organisations. In France, a court has ruled that Ahrar al-Sham is not listed as a terrorist organisation, and that it is not the role of the court to make such a determination.²⁸ However, the Court of Cassation (*Cour de Cassation*) ruled in 2021 that national courts do not have to abide by terrorist designations made by international organisations.²⁹ Similarly, in the Netherlands, the Supreme Court ruled that Ahrar al-Sham has a terrorist motive and can therefore be regarded as a terrorist organisation. The Court explained:

The fact that Ahrar al-Sham is not included on the European terrorism sanctions list and/or the national terrorism sanctions list does not lead to a different opinion [...]. In a letter [...] the Minister of Foreign Affairs explained that politicians and the courts look at the question of whether an organisation is terrorist from different perspectives. For example, for inclusion on the national terrorism sanction list, it is important whether the organisation poses a threat to [national] security. This criterion means that Ahrar al-Sham cannot be placed on this list, since there are no indications that this organisation is engaged in (attempted) terrorist activities in or from the Netherlands or is involved in the facilitation thereof, or has a realistic violent international agenda. Whether or not an organisation is placed on a terrorism sanction list is therefore independent of the question answered by the court.³⁰

In Germany, a terrorist aim is not a requirement for courts to determine the nature of an organisation. As provided in section 129a of the German Criminal Code (StGB), an organisation can be considered terrorist when it is aimed at committing the most serious crimes, or when it is aimed at committing less severe crimes that are intended to:

seriously intimidate the population, to unlawfully coerce an authority or an international organisation by force or threat of force, or to destroy or significantly impair the fundamental political, constitutional, economic, or social structures of a state or of an international organisation and which, given the nature or consequences of such offences, may seriously damage a state or an international organisation [...].³¹

Material Element (actus reus)

Participation in a terrorist organisation requires the individual to somehow contribute to the terrorist goals of the organisation. Participation can take the form of (co-)committing a crime, but also of performing non-criminal acts, such as driving or arranging logistics, so long as it supports the terrorist intent of the organisation.

A look at the activities of the female returnees convicted of membership offences in the four countries shows that the majority had provided support to their husbands by running a household and raising children. This shows that these acts – which allowed men to participate in combat – are now also considered to constitute a contribution to ISIS, as confirmed by jurisprudence across all four countries.

Nonetheless, the activities of female VEOs convicted for membership offences are quite diverse. Figure 6.4 provides an overview of the range of activities performed by women who were found guilty of membership in a terrorist organisation. It is based on a total of 229 cases relating to 227 women who were involved in a total of 310 activities, as women frequently engaged in more than one activity. The individual bars provide an overview of how common specific activities were among certain groups of women.^{viii} While none of the returnees appear to have been directly involved in combat activities, 62.6 percent of them (142 out of 227) provided some sort of logistical support. However, as illustrated in Figure 6.4 below, there are certain differences in the patterns of activities depending on whether the woman successfully travelled to the conflict zone, failed to do so, or did not attempt to travel. Unsurprisingly, of the women who travelled to Syria and Iraq and were later convicted of membership in a terrorist organisation, a majority of 85.8 percent were engaged in logistical support activities (109 of 127 women). Several of the female travellers also arranged their own or others' travels, or spread propaganda, and often did both. Among the women who attempted but failed to travel, 65.7 percent (23 of 35) were prosecuted for membership offences based on their travel arrangements to reach Syria and Iraq. Finally, among the women who did not attempt to travel, there is a significant proportion of cases in which the defendants were engaged in terrorist plotting and/or financing terrorism. It should be noted that several other women were explicitly convicted for the criminal offences of financing, recruitment, support of a terrorist organisation, or preparation of a terrorist offence. While these women have engaged in the respective activities that are also listed below, they are not included in Figure 6.4 which is intended to highlight the bandwidth of activities that can constitute a contribution to a terrorist organisation, and as such meet the *actus reus* of membership in a terrorist organisation.

Mental Element (mens rea)

Terrorist intent refers to the intended consequences of the offence. In the Netherlands, terrorist intent refers to the intent to instil fear amongst (part of the) population or to compel a country or international organisation to do or refrain from doing something or disrupt vital structures of country or international organisation.³² Whether the acts resulted in fear is not relevant in determining *mens rea*, but whether the perpetrator or terrorist organisation had the intention to instil fear is decisive. In both the Netherlands and Germany, it is sufficient that the individual knows of the organisation's goal and be aware that their actions can contribute to the realisation of the overall goal. The focus is not on the individual intentions, but on the terrorist intentions

^{viii} In five cases of women convicted for membership in a terrorist organisation in Belgium, their travel status was unknown, hence these cases are excluded from this figure.

of the organisation.^{ix} It is not necessary that the individual was aware of any specific crimes the terrorist group intends to commit. In Belgium, the offence for membership in a terrorist organisation was modified in 2016 and went one step further. A person can be convicted not only if they knew but could have known that their activities could contribute to a terrorist crime. Across the four countries, courts consider it general knowledge that ISIS was an organisation with a terrorist intent, certainly after the series of major terrorist attacks perpetrated in Europe in 2015.

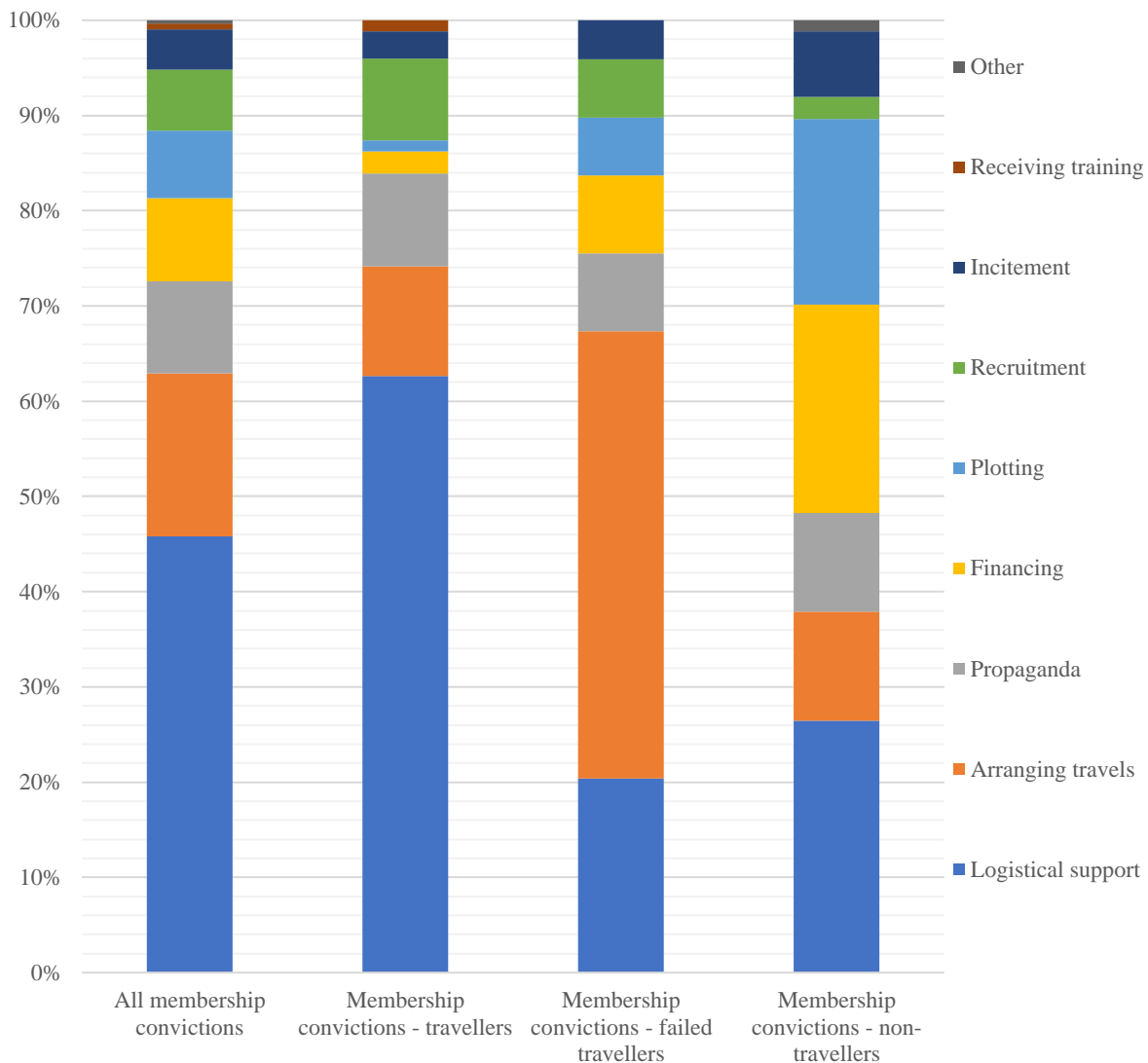


Figure 6.4: Most common activities by travel status of female returnees and VEOs convicted for membership in a terrorist organisation in Belgium, France, Germany, and the Netherlands (n(t)=310; n(trav)=174; n(ntrav)=87; n(f)=49; as of 15 July 2023)

^{ix} Thus, the individual needs to know of the organisation’s goal and be aware that his/her actions can contribute to the realisation of the overall goal. See for example standing jurisprudence in the Netherlands: Case 21/01122, Judgement, Supreme Court, 01 November 2022, para 28. <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:PHR:2022:1014>.

Most Common Core International Crime: War Crime of Pillaging

From the four countries analysed for this book, Germany remains the only country that has prosecuted female returnees for core international crimes in several cases. In the Netherlands, one female VEO has been convicted, and a few returnees are indicted for core international crimes in addition to terrorist offences. As can be seen in Figure 6.5, the war crime of pillaging has been the most common core international crime for which female returnees have been convicted for in Germany. Fourteen female returnees have been charged with the war crime of pillaging, which led to a conviction in twelve cases. Many of them ran a household and raised their children in houses given to them by ISIS. In order to successfully prosecute the war crime of pillaging, it is important to prove that the property has been taken without permission of the legal owner and is being used for personal gain. In addition, the prosecutor needs to prove that women willingly and knowingly moved into a house that has been confiscated in such a manner. By living in a house that has been illegally appropriated, some courts consider this as sufficient evidence that the women were contributing to further the territorial claim of ISIS.

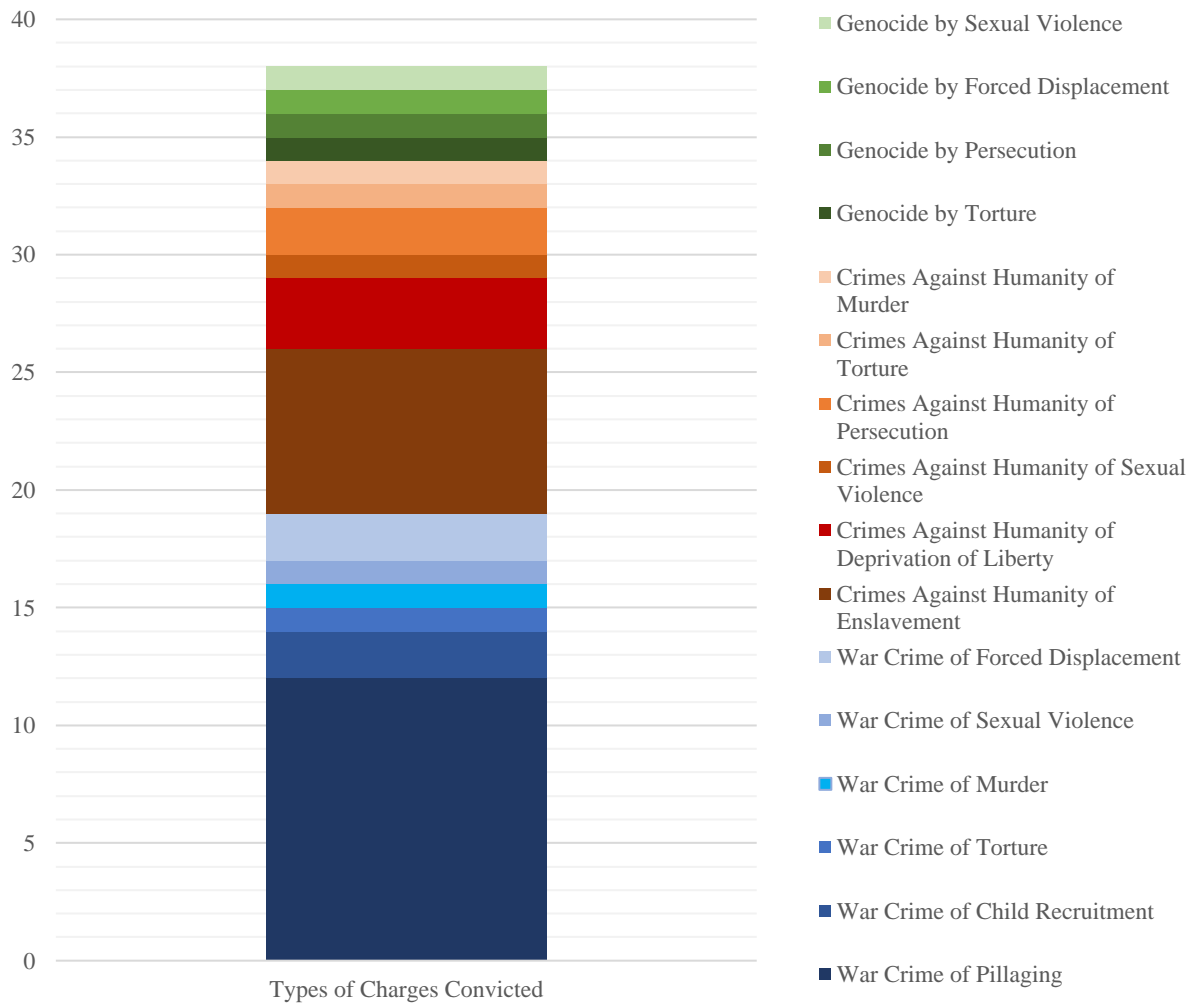


Figure 6.5: Core international crimes charges convicted in cases of female VEOs in Germany (n=20; as of 15 July 2023)

Prosecuting female returnees for the war crime of pillaging raises several challenges. It is not always possible to demonstrate that women had sufficient agency to decide not to move in an appropriated house, as many women had little say in their household, under the patriarchal caliphate society. Another challenge relates to the fact that many houses were confiscated by ISIS prior to occupation by ISIS fighters and their families. Thus, the female returnees and their families were not the ones who carried out the initial appropriation. However, in the case of Mine K., a German court ruled that the continuation of the appropriation of property by ISIS members also constitutes pillaging as a war crime.³³ In several other cases, however, pillaging charges were dropped because it was not possible to prove the property was confiscated by ISIS.³⁴

Some experts have argued that the prosecution of women for war pillaging and child neglect offences is gender-biased.³⁵ However, this can only be demonstrated by comparing with the prosecution of male returnees. Yet, this is difficult given the limited number of men that have returned and been prosecuted since 2018.³⁶ Only Khaled A., a Syrian national and member of the terrorist organisation Ahrar al-Tabqa between January and August 2013, has been successfully prosecuted in Germany for pillaging.³⁷ In addition, Deniz B., German citizen and husband according to Islamic law of the previously prosecuted returnee Sibel H., is standing trial in Germany for, among other charges, allegedly residing in two houses which were illegally seized by ISIS.³⁸ His trial has started in mid-December 2023 and could mark the start of also prosecuting men for pillaging.

Most Common Domestic Crime: Child Neglect

One of the main tasks expected of women when joining ISIS in Syria and Iraq was to give birth and raise their children according to ISIS ideology, in order to raise the next generation of ISIS fighters and expand the so-called caliphate. Since most of the female returnees prosecuted in Belgium, France, Germany, and the Netherlands were affiliated with ISIS, it is worth looking at their parental status. Upon departure to ISIS territory, not all women were mothers and not all of them took all their children with them. In the dataset, more than three quarters of the Dutch female returnees (77.8 percent) and more than half of the German female returnees (58 percent) were childless upon departure. In France and Belgium, childless women were less frequent at departure and constitute only around one quarter of female returnees prosecuted. Furthermore, many women gave birth while abroad, either in ISIS territory, or later in the Kurdish-controlled camps in Northeast Syria. The parental status has had some impact on the charges that have been laid against female returnees, but also on (pre-trial) detention arrangements, and rehabilitation and reintegration.

One particular crime that female returnees are increasingly being charged with are child neglect offences, which can involve violations of duty to care, abduction of children, and human trafficking.³⁹ Those women who have taken their own children abroad are more frequently charged with this offence than those who only became a parent when already in the conflict zone. Eight out of the twelve women who left France with their children to ISIS-controlled territory have been convicted for neglect offences upon return. These women were prosecuted for child neglect pursuant to article 227-17 of the French Criminal Code which entails a maximum sentence of two years. When these offences are committed outside of France, French nationals can still be prosecuted as long as the child neglect is also criminalised in the country where the crime has been committed. In the case of Syria, abuse, torture, and other degrading treatment of children is criminalised under articles 12, 13, and 51 of the Child Right Act, giving rise for criminal prosecution in France for child neglect offences of French nationals committed

in Syria.⁴⁰ One such case is Jihane M. who left France for Syria in 2014 with her partner and three children. She returned in 2016 with her own two children but left her partner's daughter in Syria. In addition, to membership in a terrorist organisation, Jihane M. was convicted for child abduction and child neglect and sentenced to 14 years imprisonment. This condition of double criminality also applies in Belgium when offences are committed abroad by Belgian nationals or residents. In Belgium three women were charged with child neglect offences. One of them was acquitted for having used a minor in relation to a terrorist offence, because her child was only 10-months old and could therefore not play any role in the commission of the offence. The two other cases concerned attempts to recruit their own children by two female travellers, as they tried to convince their sons to join them in Syria.

In the Netherlands, female returnees who took their children to Syria or Iraq are now automatically charged with child neglect offences. Under article 255 of the Dutch Criminal Code a mother can be sentenced to maximum of two years of imprisonment for deliberately endangering her child for whom she is responsible. If this leads to severe physical harm or death, the sentences will be respectively maximum seven or nine years of imprisonment.

In Germany, twelve women have been convicted for child neglect offences, most of them for violations of their duty to care and education pursuant to section 171 of the German Criminal Code, and only a few for the abduction of minors pursuant to section 235 of the German Criminal Code. Both offences entail a punishment of up to three years imprisonment or a fine. In cases where the child died as a result of the abduction, the imprisonment must be at least three years, and between one and ten years if the child faces a danger to life or physical or mental health due to the abduction.

Remarkably, it appears that only women who already had children at the time of departure were charged with child neglect offences. This could be for several legal, policy-related, and practical reasons. First of all, some of the child neglect offences are only applicable to children who were born in one of the European countries, for example child abductions or trafficking. Other legal barriers are that child neglect offences such as the violation of duty of care cannot be prosecuted when committed extra-territorially. If a crime is committed against a Dutch citizen, the Dutch Criminal Code is applicable provided that it concerns an offence with a minimum sentence of 8 years imprisonment and that it is criminalised in the country where it was committed. This excludes child neglect unless it leads to severe bodily harm or death.⁴¹ Another complicating factor is establishing nationality. Many of the children born in the conflict zone either do not have a birth certificate, or their birth certificate is issued by non-state actors such as the Kurdish forces (SDF).⁴² Many European countries, including the Netherlands, Belgium, France, and Germany, require DNA testing to establish nationality, which may be done in the camps prior to repatriation or upon arrival.⁴³ This process could affect the possibility to prosecute female returnees for child neglect offences of children that were born in the conflict zone and whose nationality has not yet been established. In practical terms, it will be difficult to prove that the level of care for children who were born in Syria or Iraq has deteriorated compared to that of children who have been taken from Europe to Syria and Iraq. It is also difficult to determine whether the women had any agency to provide proper or better care for the children as some were confined to their home and could not leave. Furthermore, it will be very difficult to establish what constitutes a violation of the duty to care and education for a child already born in Syria and Iraq and currently living in detention camps in Northeast Syria. Several reports have indicated that the situation in the camps is not in the best interest of a child, or conducive for the development of a child.⁴⁴ However, the women are not free to leave the camps, making it in practical terms very difficult to hold them fully accountable for the situation of their children.

Some governments have also been accused of not protecting the fundamental human right of their citizens, meaning children detained in camps in Northeast Syria. In the case of *H.F. and Others v France*, the French government was taken to the European Court of Human Rights (ECtHR) by French grandparents for its unwillingness to repatriate their grandchildren and daughter. The court took a restrictive approach – unlike the UN Committee on the Rights of the Child and many others – towards the extraterritorial application of human rights and did not recognise a right to repatriation.⁴⁵ Despite this drawback, the ECtHR did rule that procedural safeguards need to be improved in making repatriation decisions to avoid arbitrariness. Some hoped that this ruling would give a push to France and all the other countries that are member of the Council of Europe to review and expedite repatriations.⁴⁶

Penalties for Terrorist Offences

The average length of prison sentence varies within and across the four countries. Each country has its own sentencing guidelines, and the maximum penalties available for the offences provided by law are different. Comparing the sentences for the main terrorist offences in the four countries covered in this book, as of November 2023, shows that French law provides for the highest maximum imprisonment terms for terrorist offences with 30 years up to life imprisonment for membership in a terrorist organisation.⁴⁷ German law and Belgian law, on the contrary, provide for up to ten years imprisonment for the most common terrorist offences.

Over the past decade, several amendments to French laws led to an increase of maximum applicable penalty, in particular for membership offences.^x The maximum applicable prisons sentence under Belgian criminal law did not change since 2011. However, in 2019, a new law amended the criminal code to introduce higher sentences in cases of involvement of minors in support, training, or recruitment in terrorist activities.⁴⁸

In the Netherlands, an amendment proposing an increase of the maximum sentence for membership in a terrorist organisation from fifteen years to 20 years is under consideration as of November 2023.⁴⁹ However, most of the terrorism-related convictions also included other terrorism offences, which increased the overall sentence in reflection of the full range of crimes committed by the defendants, making an increase of the maximum penalty for membership only seem redundant.⁵⁰ According to the Dutch Council of Judiciary, out of the 85 cases in which men and women have been convicted for membership offences in the last ten years, only 27 convictions were based solely on membership resulting in a prison sentence of less than seven years.⁵¹ Thus it is highly unlikely that increasing the penalties will lead to longer sentences for women. Moreover, if the law gets adopted, it cannot be applied retro-actively. Figure 6.6 reflects the minimum, where applicable, and maximum applicable penalty for the most commonly charged and convicted terrorist offences in relation to female VEOs in the four countries. It thereby reflects all changes made to the applicable margin of prison sentences between 2011 and 2023.^{xi}

^x The maximum applicable sentence for membership in a terrorist organisation has been steadily increasing in France since 2004 when the association of wrongdoers AMT was categorised as a felony. See Sharon Weill, “French Foreign Fighters,” p. 230.

^{xi} In addition to prison sentences, some laws also provide for a fine to be paid by the convict. However, the number of applicable fines in cases of female returnees and VEOs was not monitored comprehensively for the purpose of this project.

Sentencing Considerations

When determining the precise type and length of sentence, judges take into account mitigating and aggravating factors. A look at the considerations made by judges in Belgium, Germany, and the Netherlands in cases of female VEOs shows that some factors are similarly applied across borders. The most commonly considered factors that can account as both mitigating or aggravating factors are showing remorse; having a criminal record; the severity of the crimes; and cruel nature of the terrorist group. The use of other factors, however, varied within and between individual courts and across countries. Belgian, German, and Dutch courts have taken into account the duration that women stayed with ISIS in many cases. Further, German, and Dutch courts have considered the conditions and length of detention in Kurdish-administered camps, (partial) confessions and the fact that women attempted to leave ISIS in many cases.

Judges often paid special attention to the women's roles as mothers. In several cases, the judges considered the separation of the defendant from her children during pre-trial detention as a mitigating factor. Especially in relation to stricter detention regimes due to COVID-19 prevention measures, judges concluded that the pre-trial detention had a particularly severe impact on the mothers and was considered a mitigating factor in determining the overall type and length of sentence. Some women were relatively young and prone to coercion, whereas

Country	Membership in a Terrorist Organisation (min) – (max)	Support of a Terrorist Organisation (min) – (max)	Recruitment for a Terrorist Organisation (min) – (max)	Preparation of Terrorist Acts (min) – (max)
Belgium ⁵²	5 years – 10 years	5 years – 10 years	5 years – 10 years	5 years – 10 years
France ^{xii}	up to 30 years	up to 30 years	up to 30 years	up to 30 years
Germany ⁵³	1 year – 10 years	0.5 years – 10 years	0.5 years – 5 years	0.5 years – 10 years
Netherlands ⁵⁴	up to 15 years	up to 15 years	up to 15 years	up to 10 years

Figure 6.6: Penalties for selected terrorist conduct in Belgium, France, Germany, and the Netherlands between 2011 and 2023

^{xii} Notably, French criminal law does not provide for distinct offences of membership, support, and preparation as all these acts are covered by the provision on AMT in Article 421-2-1 of the French Penal Code. Nonetheless, certain acts of recruitment could also fall under Article 421-2-4. Articles 421-2-1, 421-2-4, 421-5 and 421-6 French Penal Code (as of July 2016), https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070719/LEGISCTA000006136045/#LEGISCTA000006136045, with amendment increasing the maximum penalty for membership in a terrorist organisation whose aim it is to commit serious offences from 20 to 30 years imprisonment in June 2016, see Art. 13 LOI n° 2016-987 du 21 juillet 2016 prorogeant l'application de la loi n° 55-385 du 3 avril 1955 relative à l'état d'urgence et portant mesures de renforcement de la lutte antiterroriste (1) [LAW no. 2016-987 of July 21, 2016 extending the application of law no. 55-385 of April 3, 1955 relating to the state of emergency and bearing measures to strengthen the fight against terrorism (1)], 22 July 2016, <https://www.legifrance.gouv.fr/loda/id/LEGIARTI000032631189/2016-06-05#LEGIARTI000032631189>.

Mitigating factors	Aggravating factors
<ul style="list-style-type: none"> • No criminal record • Detention in camps in Northeast Syria (incl. poor living conditions and overall length) • (Partial) Confession • Remorse • Separation from child during pre-trial detention • Participation in deradicalisation programmes/distanced herself from ISIS ideology • Mental health issues • Impact of media reporting • Higher impact of pre-trial detention due to COVID-19 prevention measures 	<ul style="list-style-type: none"> • Length of membership in terrorist organisation • Cruelty of the crimes • Cruelty of the relevant terrorist organisation • Continuous radical views • No remorse • Number and age of victims • Intensity of contributions to the relevant terrorist organisation • Number of contributions to the relevant terrorist organisation

Figure 6.7: Commonly applied mitigating and aggravating factors in cases of female returnees and VEOs in Belgium, Germany, and the Netherlands (as of 15 July 2023)

others had more agency and intentionally contributed to the terrorist organisation in different ways. These and other personal circumstances are also taken into account during sentencing when they were not already taken into account as part of the charges. It also appears that several of the women had a troubled youth, suffered from physical or substance abuse, identity problems during adolescence, or other mental health issues. For some of them, these conditions were present before leaving for Syria and Iraq and throughout the time of alleged crimes, which can be interpreted by judges as a sign of vulnerability of some of these women, and therefore as a mitigating factor. In very few cases, Dutch courts assessed the mental health of the defendants, recognising that it can lead to limited culpability.⁵⁵ Information related to the (mental) health background, or history of alleged sexual- and gender-based violence (SGBV) is highly sensitive, and therefore not easily accessible. Often times, it is redacted from written judicial decisions to protect the privacy of the concerned individual. As a result, this book cannot provide any meaningful findings on the mental health of female VEOs. Figure 6.7 provides an overview of the most commonly applied mitigating and aggravating factors in the prosecution of female VEOs in Belgium, Germany and the Netherlands.

Length of Sentences

In light of the above, there is not simply one average length of sentence for female VEOs in the four countries. Instead, the research conducted for this book has helped to paint a more differentiated picture, taking into account the various aspects, such as maximum available length of sentences and personal circumstances, that are influencing the type and length of sentence for female VEOs. As can be seen from the case of Germany, convictions for core international crimes increase the length of imprisonment as well as the imprisonment rate, in addition to holding the women accountable for the full range of crimes they have committed. When charged and convicted for core international crimes in addition to terrorism and/or domestic charges, the average length of a prison sentence for female VEOs in Germany increases by one and a half years, from three years, four months, and two weeks to four years,

nine months, and four weeks. Additionally, female returnees convicted for core international crimes in the country are more likely to receive prison sentences (85.7 percent) compared to the women who were convicted only for terrorism and/or domestic charges (35.7 percent).

Looking at all convictions across all four countries, the sentence that judges determined based on the individual guilt of a defendant varies in terms of type, as well as length. Sentences range from ordinary suspension to firm imprisonment, as well as to combined sentences of prison and probation as described further below and shown in Figure 6.9.

In more detail, Figure 6.8 compares the length of prison sentences and imprisonment rates across all four countries. It does so by comparing sentences between returnees, meaning those who successfully travelled to the conflict zone and later returned, and domestic VEOs who either did not attempt to travel at all or failed to do so at home or in a third country. Calculations are based on the following criteria. Firstly, it includes cases in which a convicted VEO was sentenced to prison and has to undergo a probation period after release from prison, or when parts of the prison sentence have been replaced by a probation period. Secondly, in the context of this research, sentencing only refers to imprisonment after a conviction and does not take into account other periods of detention, such as pre-trial detention, administrative detention, or reductions of detention after conviction caused by early release. The reason for this is that the legal basis, purpose, and procedural safeguards for these forms of detention are different and data for these detention periods as for example pre-trial detention and early release are not available for all of the countries.

While these considerations allow for comparisons on the length of imprisonment and imprisonment rate following convictions, one must recognise certain country-specific differences in sentencing procedures and practices to put the findings into context. Notably, sentencing judges in Belgium have more leverage when deciding on the replacement of a prison sentence by a probation period. In Germany, the rule of thumb is that all prison sentences of two or less years are entirely replaced by probation periods.⁵⁶ Similarly, a significant number of prison sentences of up to four years given to female VEOs in Belgium were replaced by probationary reprieve, the so-called *sursis probatoire*.⁵⁷ Consequently, the actual imprisonment rate following conviction in Belgium is significantly lower, particularly for female VEOs who have not travelled abroad. Furthermore, Belgium and France tried many women in absentia. These individuals are thus neither non-travelling, nor are they returnees, as they were still abroad at the time of prosecution. In calculating the overall average length of prison sentence and imprisonment rate, these cases can have a significant impact. They increase both the average length as well as the imprisonment rate. Nonetheless, these women do not actually spend time in Belgian or French prisons as they are still abroad, unless they return or are repatriated in the future.

It must also be noted that the duration of the prison sentence as portrayed in Figure 6.8 is not identical with the actual time that these women have to spend in prison in practice. Indeed, many female VEOs (like most offenders) will be released before the end of the sentence. A number of women might even be eligible for early release quite soon after the end of their trial, due to the time already spent in pre-trial detention. Furthermore, a number of female VEOs might be eligible to spend part of their sentence in looser detention regimes that allow them to spend time outside of confinement during the day.

With this in mind, the imprisonment rate following conviction in all four countries for female VEOs is lower in cases of women who did not travel to Syria or Iraq. France has the highest average prison sentences for all female VEOs, independently of their travel status. The average length of sentence in the Netherlands is lower compared to the other three countries, but it also

has the highest imprisonment rate for all female VEOs. However, it should be acknowledged that the small number of prosecuted cases in the Netherlands might have an effect on the calculated averages.^{xiii} The low imprisonment rate of female VEOs in Belgium is noteworthy but can be explained at least in part by the very systematic prosecution of women, including a number of women who were prosecuted and convicted for relatively minor offences, or with limited evidence, hence resulting in lower sentences. Nevertheless, a gender-bias in the sentencing in Belgium cannot be excluded, although it cannot be demonstrated either.

Country	Average length of imprisonment as pronounced by the courts in the sentence			Imprisonment rate (effective imprisonment, following convictions)		
	Returnees	Domestic VEOs	All incl. in absentia	Returnees	Domestic VEOs	All incl. in absentia
Belgium	5.44 years	2.68 years	4.32 years	50%	16.7%	52.2%
France	6 years	6.90 years	7.63 years	75%	50%	75%
Germany	4.52 years	4.83 years	4.68 years	65.7%	50%	57.9%
Netherlands	1.77 years	1.45 years	1.61 years	84.2%	55.6%	69.9%

Figure 6.8: Comparison of length of sentence by travel status of female VEOs prosecuted in Belgium, France, Germany, and the Netherlands (n=283; as of 15 July 2023)

Juvenile Justice

A look at the prosecutions of female VEOs in Belgium, France, Germany, and the Netherlands shows that many of the women were very young, some even under-age at the time they allegedly committed the crimes.^{xiv} When alleged minor offenders face criminal prosecution, certain departures from regular criminal justice are required to address their special needs. The EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings and other international standards identifies four key aspects of juvenile justice: the best interest of a child; the right to be heard; non-discrimination; and the provision of measures that uphold these rights.⁵⁸ In addition to protecting public safety, the primary aim of juvenile justice is the well-being and education of the youth offender.

France has applied juvenile justice in 21.3 percent (20 out of 94) of the cases in our sample. These cases under juvenile justice involved women aged between thirteen and eighteen years at the time they committed the crimes in question. Pursuant to article L11-1 of the French Juvenile Justice Code, youth offenders can be held criminally responsible under juvenile justice provisions between the age of thirteen and eighteen years. None of the women who were tried under juvenile justice had travelled to Syria and Iraq. The majority did not attempt to leave France, while a few failed to leave the country. These young women were all convicted of participation in a terrorist organisation (*AMT correctional*) with 60 percent of them (12) receiving a sentence on probation while the others were sentenced to an average term of imprisonment of two years, ten months, and 24 days in prison. When sentencing youth offenders, French Juvenile Courts, and *Cour d'assises des Mineurs* can only impose half of the

^{xiii} For more information of sentencing and development of sentences in the Netherlands, see Chapter: The Dutch Approach to Female Violent Extremist Offenders.

^{xiv} In relation to those who went abroad to join ISIS and other terrorist organisations in Syria or Iraq, research has shown that females were more often minors than their male counterparts, see Joana Cook and Gina Vale, "From Daesh to 'Diaspora': Tracing the Women and Minors of Islamic State," International Centre for the Study of Radicalisation, 2018, pp. 21-24, <https://icsr.info/wp-content/uploads/2018/07/ICSR-Report-From-Daesh-to-%E2%80%98Diaspora%E2%80%99-Tracing-the-Women-and-Minors-of-Islamic-State.pdf>.

length of sentence compared to ordinary criminal justice for both custodial sentences and fines with a maximum fine of €7,500. In cases where ordinary criminal justice provides for life imprisonment, the maximum term for youth offenders is set at 20 years imprisonment (articles L121-5, L121-6 French Juvenile Justice Code). If the defendant was, however, sixteen years or older at the time of the commission of the crimes, the juvenile courts may apply ordinary criminal justice sentencing regulations, following an assessment of the defendant's personal circumstances and maturity and context of the case, as provided for in article L121-7 of the French Juvenile Justice Code. Nonetheless, in such cases, the maximum penalty is set at 30 years imprisonment.

In Germany, 26.8 percent (11) of the cases from our sample were tried under juvenile justice against women aged between 15 and 23 years at the time of the commission of the crimes in question. Pursuant to the section 105 (1) of the German Youth Courts Act, juvenile justice can be applied to adolescent offenders up to the age of 21 years, following an assessment of their maturity and personal circumstances. The average term of imprisonment for female VEOs tried under juvenile justice in Germany is four years, four months, and 23 days. One of the reasons for this relatively long term of imprisonment is the fact that half of these women were cumulatively convicted of core international crimes, terrorism charges, and domestic charges. When an indictment period stretches over a longer period of time, such as several months or years of affiliation with a terrorist organisation in a conflict zone, juvenile and ordinary criminal justice provisions can be applied consecutively. In such cases, parts of the sentence are determined according to juvenile justice and others pursuant to regular criminal justice. This is also one of the reasons why the average sentence for juvenile justice cases concerning female VEOs in Germany is longer compared to France or the Netherlands.

Figure 6.9 below provides an overview of the average length of sentences for different categories of sentences as pronounced in cases adjudicated under juvenile justice regimes compared to those tried pursuant to common criminal procedure across all four countries. For this purpose, types of sentences were grouped in three categories, namely custodial, non-custodial, and a combination of custodial and non-custodial sentences. Non-custodial sentences relate to all sentences that are executed outside a prison facility. This relates, among others, to house arrest and probation periods. In measuring the duration of these sentences, the length of the pronounced measure, for example probation period, or house arrest, as mentioned in the verdict was taken into account. However, probation periods were often ordered in addition to prison sentences or replacing parts of a prison sentence. This combination is categorised as a combination of custodial and non-custodial sentences. When calculating the average length of this category of sentence, the duration of the prison sentence, in addition to the non-prison sentence, was taken as the overall length of sentence. In cases where the court decision stated that the probation period was replacing a part of the prison period, the part of the prison sentence which was not intended to be executed was deducted from the length of the prison sentence. Finally, custodial sentences relate to all sentences that have to be spent entirely in a prison facility, meaning solely prison sentences. For these categories, the length of the prison sentence as pronounced in the verdict was taken into account for the below comparison.

According to our data from the four countries the combination of custodial and non-custodial sentences does not lead to a longer period of time than mere custodial sentences (Figure 6.9). For sentences following from both juvenile justice and common criminal justice, only custodial sentences show the highest average length. In cases tried under juvenile justice, convicts in the four countries received an average custodial sentence of four years, five months, and five days

COMPARATIVE ANALYSIS

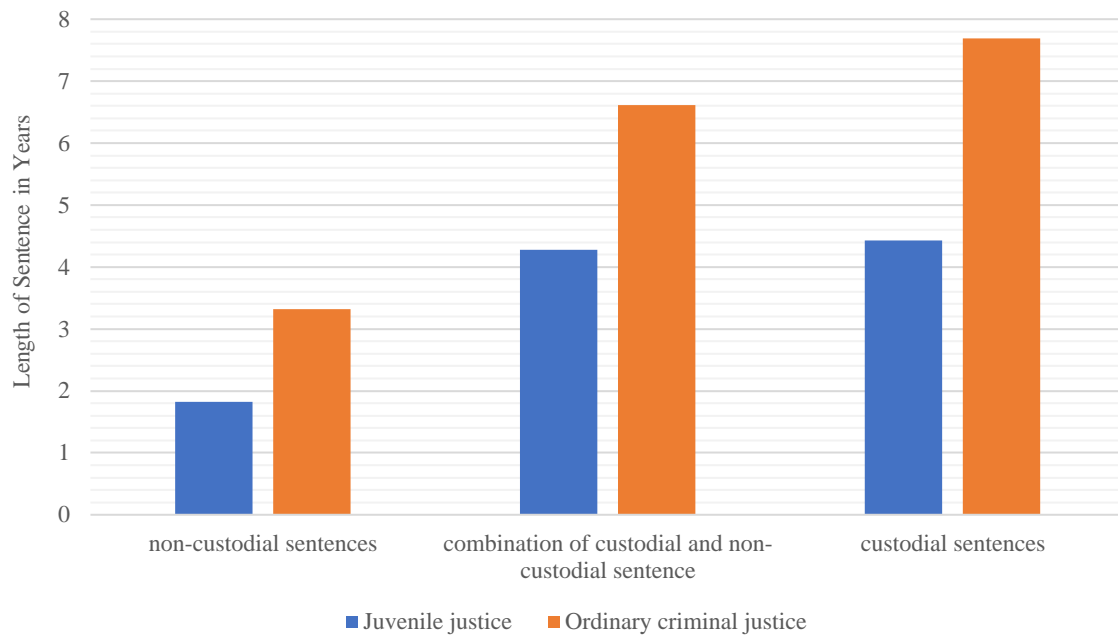


Figure 6.9: Average length of sentences for different types of sentences handed down against female VEOs in Belgium, France, Germany, and the Netherlands (n(BE)=109; n(FRA)=91; n(GER)=41; n(NL)=24; as of 15 July 2023)

imprisonment. Women convicted under common criminal justice on the other hand, were sentenced to an average of seven years, eight months, and nine days sole imprisonment.

Overall, and pursuant to the rationale of juvenile justice, women tried under juvenile justice in the four countries received shorter sentences across all three categories than those tried under common criminal justice (Figure 6.9). Looking at non-custodial and suspended sentences, juvenile justice procedures led to an average of one year, nine months, and 26 days of imposed measures, whereas cases following common criminal justice resulted in almost double the length of non-custodial measures, more precisely three years, three months, and 26 days. In cases resulting in a combination of custodial and non-custodial measures pronounced in the sentence, the difference in average length between juvenile justice cases and common criminal justice cases is the smallest from the three categories. Here, women tried under juvenile justice were sentenced to imprisonment in combination with probation or other non-custodial measures for an average of four years, three months, and eleven days. Conversely, those tried under common criminal justice were imposed these measures for an average duration of six years, seven months, and ten days.

The age of criminal responsibility in the Netherlands is twelve years pursuant to article 486 of the Dutch Criminal Code, and juvenile justice is applicable to persons between twelve and eighteen years old. Only two women in the country sample were initially tried pursuant to juvenile justice. However, in one case, the court of appeal found that in light of the severity of the crimes and the personal circumstances of the defendant, the woman, who was seventeen years old at the time she committed the respective crimes, should be sentenced in accordance with ordinary criminal justice in accordance with article 77b of the Dutch Criminal Code, which allows to deviate from applying juvenile justice for persons between sixteen and

eighteen under certain conditions. Under article 77c of the Dutch Criminal Code, a judge can decide that persons between the age of eighteen and 23 should be tried under juvenile justice. The prosecutor can also request the application of juvenile justice. One advantage is that the application of a broader range of measures are available when applying juvenile justice, which may be more suited to the (development of an) adolescent.

No cases of female returnees and VEOs being tried under juvenile justice are known in Belgium. This could be due to the slightly different juvenile justice framework in Belgium compared to the other countries, as well as to the collection method for court cases⁵⁹. According to Belgian law, children under the age of eighteen are not criminally responsible and are dealt with by juvenile judges available in each judicial district. When persons under the age of eighteen commit crimes, protection measures are imposed, which can include referral to a closed youth institution. Alleged juvenile offenders between sixteen and eighteen years are eligible for prosecution under ordinary criminal justice following an assessment of their maturity, personal circumstances, and gravity of the alleged crimes (articles 36bis, 57bis of the Belgian Youth Protection Act).

Applying juvenile justice not only has an impact on determining the type and length of sentence but may also provide a broader range of protective measures, both regarding prison management, as well as regarding the rehabilitation and reintegration of young offenders. One of the measures to ease reintegration is to hold trials of under-age offenders behind closed doors. This prevents exposure to the media, stigmatisation, and ensures better protection of the defendant's privacy.⁶⁰ The domestic laws of all four countries relevant to this research are aligned with the EU Directive 2016/800.⁶¹ In fact, several trials of female VEOs in Germany, who were prosecuted under juvenile justice, are usually held behind closed doors with only an anonymised press release providing a short summary of the judgments being made public.

Acquittals

Finally, when looking at the number of acquittals, it is evident that they are relatively low. In Germany, there are no full acquittals, three in France (3.2 percent of all cases), four in the Netherlands (14.3 percent of all cases) and eleven in Belgium (9.2 percent of all cases). In the Netherlands, one woman was fully acquitted of all charges of financing of terrorism because it could not be established that she intentionally sent the money to an ISIS member. The other two acquittals were related to incitement and recruitment. In the summer of 2023, another female returnee was acquitted of the charge of membership in a terrorist group because it could not be established that she ran a household together with her husband, an ISIS member, nor that she contributed to the terrorist aim of ISIS. This decision has been appealed.⁶² Accordingly, the acquittal rate among female VEOs overall is relatively low across all four countries with an overall rate of 6.4 percent. Notably, the rate of acquittals among female returnees is considerably lower (5.2 percent overall) than among women that did not travel to the conflict zone (9 percent overall).

Deprivation of Nationality

Deprivation of nationality as a tool to address terrorism has been occasionally used against female VEOs. In some countries, like the Netherlands, the deprivation of one's nationality can take place either when a person poses a threat to national security, or after a criminal conviction.

The Netherlands has applied deprivation of nationality relatively frequently, that is in 29 cases after a criminal conviction, including men and women. So far, nine have become final. However, deprivation of nationality after a criminal conviction can also be conducted in Belgium, Germany, and France. In all four countries a deprivation of nationality can only be conducted in case the person in question is not rendered stateless, but the conditions under which a deprivation of nationality can take place, the frequency, and the implications of this measure differ.

The procedure in Belgium for stripping of nationality has undergone several changes, most recently in 2015. Pursuant to article 23 sections 1 and 2 of the Belgian Nationality Act, a person convicted for a terrorist offence which entails a sentence of at least five years of imprisonment can be stripped of his or her nationality, independently from how or when the nationality was acquired. The decision is taken by a court at the request of the prosecutor.⁶³ According to the available data, it appears that twelve female VEOs have been stripped of their nationality in Belgium, since 2012. Although the prosecutor has requested a revocation of nationality in more cases, some of these requests were eventually declined by the judges, based on several considerations such as the person's links to Belgium. Eight of them were stripped of their Belgian nationality after a trial in absentia. In four cases, the women were convicted while being in Belgium. One of them is Malika el A., who was stripped of her nationality, but the government was unable to deport her to Morocco after she had served her sentence.⁶⁴

So far, no German female VEO has been stripped of her nationality. It is only since 2019 that German nationals with dual nationality can lose their German citizenship if they have *concretely* participated in combat on the side of a terrorist organisation, as provided in Section 28 of the Germany Nationality Act. The loss of nationality must then be registered by the relevant administration office *proprio motu*. Those individuals who reside in Germany can take legal measures against such a decision, while individuals who are abroad cannot challenge the decision. Since there are no indications that any German woman has been involved in combat activities, it is thus very unlikely that they would be stripped of their nationality.

In France, only persons who have acquired French nationality through naturalisation can be stripped of their nationality. Reasons include having committed a serious crime, including terrorist offences, either before acquiring the French nationality, or within fifteen years after having acquired the nationality, provided it does not lead to statelessness.⁶⁵ A person can be deprived of their French nationality by the Council of Ministers, after both the individual and the Council of State have been heard.⁶⁶ In 2015 the Constitutional Council concluded that the regulations on deprivation of nationality are in conformity with the ECHR.⁶⁷ It appears that over the last two decades, a deprivation of nationality after criminal conviction decision has been issued 31 times in France, mostly on men. The first case of stripping a woman of her French nationality due to terrorist offences occurred in May 2023. Unzile S., a young woman with French and Turkish nationality was convicted in 2017 for plotting a terrorist attack in March 2016.⁶⁸ The procedure to revoke her nationality was initiated in August 2022, three years after she was released from prison. While the Council of State recognised that she had made considerable efforts to reintegrate into society, including by obtaining a permanent employment contract as of February 2023, they concluded that the nature and seriousness of her acts committed justified the decision to deprive her of her French nationality.⁶⁹

The ECtHR has ruled in several cases whether a decision on deprivation of nationality taken after a criminal conviction constitutes a violation of the right to private life. While the case of *K2 v. the United Kingdom* dealt with deprivation of nationality of a male while being outside the country, the ECtHR has also ruled in *Ghoumid and Others v. France* that the fact that the French authorities decided to deprive the nationality of male applicants more than ten years

after the commission of the terrorist offences they were convicted for, did not mean that the decision was taken without due diligence and hence did not constitute a violation of their rights under the European Charter of Human Rights.⁷⁰

The deprivation of nationality is often followed by a non-entry ban and return decision, as can be seen in the Netherlands. The EU has adopted a Directive 2008/115 on common standards and procedures on the return procedure for illegal third country nationals.⁷¹ The decision to deprive someone of their nationality does and should not automatically lead to declaring a person an illegal resident. The EU Directive specifically mentions that the best interest of the child, family life, and the level of medical care in the country of the other nationality, as well as the principle of non-refoulement should be taken into consideration when deciding on taking a return decision.⁷² Furthermore, imposing a return decision because a person poses a risk to national security does not necessarily reduce the risk of national security. A person can still plot an attack from abroad, mobilise a social network online from abroad, or engage in terrorist activities abroad.

To understand the effects of a deprivation of nationality a distinction needs to be drawn between cases where this is applied for a person who is in the country and cases where a person is abroad.⁷³ If a return decision becomes final, it remains yet to be seen how this can be implemented in practice. While some may choose to leave the country voluntarily, other individuals may not want to return to a third country because they have built up a life in the current country, for example have a family there, and are making significant steps in their reintegration process. Other reasons include that third countries may not want to take back their nationals, or that a risk of human rights abuse may prevent expulsion.

While deprivation of nationality may under very limited circumstances be permitted under international law, it remains controversial and even counter-productive in practice. Deprivation of nationality after criminal conviction is perceived as a punitive measure, leading to many practical problems: the individuals are often no longer legal residents, they lose their national identity number and are unable to apply for medical insurance for themselves or their children, are unable to apply for jobs, and cannot register their children in school. They are no longer entitled to social benefits, including any support with their reintegration into society. All these uncertainties could push an individual towards clandestine life, or even towards radical networks as a result of a new grievance against the host country and lack of opportunities to reintegrate into society. Options to monitor such individuals are limited, since house arrest or immigration detention must be limited in time.

In the Netherlands, deprivation of nationality is a controversial issue.⁷⁴ Regardless of whether the verdict is seen as lenient or strict, once the women have been informed that they will be deprived of their Dutch nationality, the decision triggers legal proceedings to appeal the deprivation and return orders. In some of the more recent cases against female returnees, deprivation of nationality or the risk thereof is taken into account as a mitigating factor during sentence. The measure is perceived as rigid and there is not enough support among certain stakeholders, such as Dutch Probation Service and several municipalities, for deprivation of nationality after a criminal conviction.

Prison Management

A New Population

The number of female VEOs in detention has increased significantly over the past decade in Europe, and notably in the four countries covered by this book. Historically, only very few

women have been detained on terrorism charges in European countries, compared with several decades of experience in managing male VEOs from various ideological backgrounds, and notably related to Islamist-inspired terrorism since the 1990s.

The growing number of female VEOs in European prisons is the result of several factors. First, the mobilisation of European individuals to join a jihadi organisation in Syria and Iraq was unprecedented, as well as the number of women and minors that travelled to Syria, or attempted to do so, as explained in the introduction of this book. Second, the tightening of security measures, around 2014-2015, in the context of an increased terrorist threat level and of a wave of terrorist attacks led to more arrests in jihadi circles. This, and the shift in the prosecutorial approach, as described above, resulted progressively in a growing number of women in prison, whether in pre-trial detention, or in detention following a conviction. This includes women that were arrested and prosecuted sometimes months or years after their return from Syria, since most voluntary returns occurred between 2014 and 2016. Third, the decision of several European governments to repatriate female travellers detained by the Kurdish forces in Northeast Syria since the fall of ISIS' so-called caliphate, led to a new wave of female VEOs in detention. Since 2019, Belgium, France, Germany, and the Netherlands have repatriated 113 women from the camps, in addition to 319 children.⁷⁵

Interestingly, the number of female VEOs in detention has increased significantly over the past few years while the number of male VEOs started to decrease progressively, after an estimated peak around 2018-19.⁷⁶ As a result, female VEOs now represent a non-negligible share of the VEO population in several countries, for example 13 percent in Belgium, 24 percent in France, and allegedly even higher in the Netherlands.^{xv} Further exacerbating this changing gender ratio, the reduced terrorist threat level in Europe between 2018 and 2023, resulted in a decreasing number of inmates considered as potentially radicalised albeit not convicted for terrorism offences in several countries, notably in France and Belgium.⁷⁷ Radicalised inmates are managed very similarly to terrorist offenders. Since that category was largely dominated by male inmates,^{xvi} its decrease is further rebalancing the female/male VEOs ratio.

The implications of the growing number of female VEOs in prison should not be neglected or underestimated. Given the much smaller number of women in prison, compared with men, female VEOs tend to constitute a higher share of the female inmate population. For example, they represent between three to four percent of female inmates in France and Belgium, whereas male VEOs generally represent less than one percent of the total prison population.

Overall, female VEOs represent a double minority group: they are a minority in the group of all VEO inmates, and they are part of the female minority in the prison system. This makes them particularly remarkable.

Some European countries had far fewer female VEOs, have still not repatriated their citizens, or are still lagging behind with regard to prosecution. However, for the countries covered in this book, the rising number of female VEOs in prison has been a very significant trend, despite differences across countries. Even though some women had been detained in these countries prior to 2012, in relation to jihadi terrorism or to other forms of terrorism (notably far-left

^{xv} Data for Germany was not available. As of November 2022, 21 women were detained in the terrorist unit for female inmates in Zwolle. Other terrorist units for male offenders in the Netherlands have a capacity of around 60 spaces.

^{xvi} For instance, in France, there were only 11 women among the 904 inmates considered as radicalised (DCSR) among ordinary inmates in French prisons, as of 30 December 2019. See: Controleur general des lieux de privation de liberté, "Prise en charge pénitentiaire des personnes 'radicalisées' et respect des droits fondamentaux," Report, January 2020, https://medias.vie-publique.fr/data_storage_s3/rapport/pdf/274641.pdf.

terrorism, in France, Belgium and Germany), such cases were too exceptional to trigger any specific response, or to develop any relevant experience.^{xvii} In contrast, the recent increase of female inmates has led to serious reflections within the prison system, as well as to the development of new specific policy responses.

Prison Regimes

With a growing number of female VEOs in detention, it progressively became necessary to consider options for specific detention policies. This was notably the case in France, where the perspective of the repatriation of female jihadis from Syria seems to have motivated the decision to create new dedicated units for female VEOs. In the Netherlands, the perspective of repatriation might have played a role in re-evaluating the detention regime for female VEOs. A small number of women had been detained in the same units as male VEOs until 2020, but the repatriation of eighteen women from Syria, between 2021 and 2022, could hardly have been absorbed in the two terrorist wings of the prisons Vught and De Schie, where there were already 30-40 extremist offenders, mostly men, in a detention model that was considered already to be under pressure.⁷⁸

The four countries covered in this book eventually adopted a prison management regime for female VEOs that is essentially mirroring the one for male VEOs. It is interesting to note that authorities could have decided to opt for a different approach, based on a distinct risk and needs analysis of the female VEO population, compared to men. However, it seems that governments favoured a path-dependent policy-making process, extending the prison management approach in place for male VEOs to female VEOs. As a result, the female VEOs in the Netherlands are all concentrated in one specialised prison wing, in Zwolle, which was established in 2020. In France, since 2021, female VEOs are first oriented to an evaluation of radicalisation unit (QER), for evaluation lasting up to four months, and eventually to either a radicalisation processing unit (QPR), isolation unit, or ordinary detention for the remaining of the detention. Belgium is an exception in the sense that it did not fully transpose the system in place for male VEOs. Indeed, two special wings had been created in 2016 to isolate male terrorist leaders or recruiters, the so-called Deradex units, but no similar units have been established for female VEOs. However, considering that these units had been progressively marginalised in the prison management of male VEOs, with only one inmate remaining in these units in 2023 for a total of 40 places available, there is arguably little difference in the management of male and female VEOs in Belgium.

Different models of prison management for terrorist offenders co-exist in Europe, which all present strengths and weaknesses.⁷⁹ More concretely:

- *Dispersion*: Under this regime, VEOs are spread across many different prisons and among non-VEO inmates, falling under the ordinary prison regime – although this can be complemented with additional procedural security measures. The potential advantage of such a regime is that it may encourage VEOs to open up when in contact with other inmates that do not necessarily share their same worldviews. It also limits the risks of creating or maintaining extremist structures and cohesion in prison and challenges the narrative of violent extremist groups that VEOs are discriminated against

^{xvii} In Spain, it is estimated that women represented about 10 percent of the ETA prisoners, whereas about a third of the defendants during trials of the far-left terrorist group *Action Directe* in France were women. See Carrie Hamilton, *Women and ETA* (Manchester: Manchester University Press, 2013); Fanny Bugnon, “La violence politique au prisme du genre à travers la presse française (1970-1994),” (PhD diss., Université d’Angers, 2011), https://theses.hal.science/tel-00641911/file/These_Fanny_Bugnon_2011.pdf.

or treated with exceptional measures. In contrast, disadvantages include the risk that VEOs can use this regime to radicalise, recruit, or network with other inmates or staff. Furthermore, it potentially means that the management of VEOs is left to non-specialised staff.

- *Concentration*: Under this regime, VEOs are concentrated in one or several wings or units, across the country. They are therefore placed together but separated from other inmates. Potential advantages include VEOs having limited opportunities to influence other prisoners; it being easier to monitor VEOs and develop specific intervention programmes for them; and staff are potentially specialised for the management of these kinds of inmates. On the other hand, this kind of regime also presents disadvantages, such as the risk that VEOs will strengthen ties among themselves and possibly use their time together to maintain their cohesion or prepare illicit activities. Additional disadvantages include: the absence of contact with non-extremist inmates, VEOs' ability to be confronted with other points of view are limited; feelings of marginalisation or stigmatisation may develop among inmates, increasing their frustration and radicalisation; and segregation may give VEOs a higher status in the eyes of staff and inmates. Finally, segregation limits their ability to participate in rehabilitation or reinsertion programmes.
- *Isolation*: Under this regime, VEOs are isolated from all other inmates, including other VEOs. This is a very strict security regime, which is generally not recommended given that prolonged solitary confinement is prohibited under human rights law and under the UN standard minimum rules for the treatment of prisoners (so-called Mandela Rules).⁸⁰ However, isolation regimes remain controversially practiced with or without some nuance in some countries, or in extrajudicial detention facilities.
- *Mixed-regime*: Most countries, at least in Europe, have now opted for a mixed regime, combining the above three regimes. Depending on the assessment or categorisation of the inmate, based notably on available intelligence, the most challenging VEOs, for instance in terms of radicalisation or recruitment, can be placed in separate units, whereas other VEOs can be dispersed – yet often still subject to relatively strict security measures. This approach allows flexibility to select the most appropriate regime and also facilitates mobility, as VEOs may transition from one regime to another, depending on their behaviour and subsequent assessments.

The four countries covered in this book have all adopted a different prison management system. Belgium and Germany implement a system of dispersion, based on the evaluation that the risk of radicalisation of other female inmates by female VEOs is limited. In contrast, the Netherlands has opted for a concentration model, with all female VEOs initially grouped in the same prison wing, in Zwolle. The risk of creating a group effect is partly diminished by the fact that most of the women detained in Zwolle were already detained together in Syria before repatriation, and they are furthermore divided in smaller groups within detention. In addition, female VEOs are eligible to be transferred to regular detention after one third of their sentence, in order to facilitate their reintegration by confronting them with other inmates, although this is allegedly not always possible in practice. The French system is a “mixed regime”, which allows to place female VEOs in isolation, in specialised radicalisation processing units (QPR), or in regular detention, after an initial risk evaluation.

Independently from the detention regime, the management of female VEOs presents some similar opportunities and challenges across all countries. One general advantage, compared with the detention of male VEOs, is that units for female inmates are much smaller than prisons

for men. As a result, they are generally easier to manage, notably due to a higher ratio of prison staff members to inmates, and a closer proximity to inmates. In specialised units, like in France and Netherlands, the ratio of staff to VEO is even higher than for regular female inmates, and staff members have received specific training. In contrast, the limited number of detention centres for women limits the authorities' placement flexibility. In the dispersion approach, they only have limited options to spread female VEOs across the country, to separate female VEOs from one another, and to move them around when needed (for example, after an incident). In Belgium, for instance, there are only nine prisons with special units for women. In France, only a third of the prisons are vetted to host female VEOs. As a result, some women are detained far away from their family members, including potentially their children, which can further complicate their rehabilitation. Furthermore, not all prisons are equally equipped to provide specific healthcare or psychiatric support to women, which can be problematic considering the high prevalence of trauma among female VEOs.⁸¹

Finally, similarly to male VEOs, female VEOs can be subject to specific additional security measures in prison, such as surveillance of external communications and body searches, they are being closely observed and monitored by prison staff and intelligence services, and their cases are being discussed within multi-stakeholder platforms, whose frequency and configuration vary across countries.

Risk Assessment

Across Europe, prison staff was at first cautiously suspicious with regard to the influx of female VEOs, a population that had been depicted quite negatively in the press, as liars, bad mothers, and even monsters.⁸² However, this perception has evolved over time. Most female VEOs proved to be relatively “quiet”, “well-adapted inmates, creating little trouble. Compared with some male VEOs, they are seen as posing “no physical risk” and “incidents are rare”, according to stakeholders interviewed for this book. One striking exception was the escape attempt by one female VEO in France.^{xviii} The content of daily staff observations of female VEOs evolved accordingly, from a certain sense of paranoia to a much less alarming tone, as mentioned in various chapters of this book.

Female VEOs do not seem to benefit from the same exceptional status among other inmates, compared with some male VEOs, and the risk of radicalisation and recruitment of other inmates seems less prevalent among the female population. While acknowledging the risk that radicalisation and recruitment could occur, and therefore the necessity to take specific security measures or detention regimes as discussed above, the risk is usually considered much lower than for male VEOs. In some countries, it was even stated that no cases of radicalisation or recruitment by female VEOs have been observed so far.

It is important to highlight that the above does not imply that imprisoned female VEOs are all completely deradicalised. In the Netherlands, for instance, the national counter-terrorism fusion centre (NCTV) considers female VEOs in detention as “a mix of women who continue to actively embrace and promote jihadist ideology and a smaller number who appear to have genuinely renounced it.”⁸³ Furthermore, as highlighted in the French chapter, some women may appear disillusioned with jihadism, based on their experience in Syria, but may still be vulnerable to (re-) radicalisation. Interestingly, a number of stakeholders interviewed for this

^{xviii} In a separate case worth mentioning, a male terrorist convict and his wife stabbed two prison guards in 2019, in France. Hanane A. had smuggled a knife into the prison, as she visited her husband in prison. Although she was not an inmate, it is one of the very few cases of terrorism violence in prison involving a woman.

project made a distinction between female returnees and those who did not travel, as the former tended to show more signs of disillusionment and disengagement than the latter, whose idealised views of jihad had not been confronted with the reality of war. In some cases, imprisoned female “frustrated travellers” even considered female returnees to be “traitors”.⁸⁴

Overall, interviews with stakeholders in this book highlight that staff has developed a better understanding of the different risk profiles of female VEOs. Compared with men, female VEOs are perceived as posing a fairly limited risk in prison, while recognising that some could remain a threat upon release. However, some dissenting voices were heard among stakeholders, voicing concerns about some possible naivety from prison staff, and fearing a form of gender-based complacency towards female VEOs.

Specific risk assessment tools are used in all four countries covered by this book, in order to evaluate the risk posed by female VEOs in prison and upon release. Belgium, Germany, and the Netherlands use the VERA-2R tool, a specialised structured professional judgement tool for extremist offenders. France uses its own analytical grid. In either case, these tools are not gender-specific, and they are applied to all VEOs alike. Risk assessment tools have been developed over the past years, relying on available data on extremist offenders. Since available data is largely male-dominated, it is legitimate to ask whether these tools are adapted to evaluate female VEOs, and whether they properly take into account a gender perspective as recommended by UN Security Council Resolution 2396 (2017).⁸⁵ However, this book suggests that these tools are considered by their users as sufficiently gender-neutral, as they cover broad risk and protective factors that can manifest both with men and women, albeit possibly differently. In any case, scientific knowledge about gender-specific risk factors for female VEOs, such as psychopathology, is essentially non-existent and it seems therefore difficult to develop gender-specific tools.⁸⁶

The Issue of Children

The issue of children is much more central to the management of female VEOs, and more specifically to female returnees, than for male returnees or VEOs. In our sample, about half of the women who travelled to Syria and Iraq already had children prior to departure, and more came back with children born in the area.^{xix}

The mother-child relationship is widely recognised as paramount to protect. This is arguably particularly true for young children that were repatriated from Syria with their mothers, who grew up in a particular proximity to their mothers in the Kurdish camps, and are often highly traumatised.⁸⁷ However, from a prison management perspective, this creates specific challenges. For instance, in some countries, notably in Belgium and Germany, it is theoretically possible to let children up to a certain age (3 years, or even up to 6 years in Germany) stay in prison with their mothers. However, that is not always possible due to a lack of adapted cells in prison. And, above all, it is generally not considered desirable by the authorities from a child welfare perspective, and therefore remains very exceptional practice.

Another challenge, already mentioned above, is that the limited amount of (vetted) prisons for female VEOs and the overall policy to disperse women across all prisons results sometimes in

^{xix} We did not have information about the parental status for 19 percent of the combined sample, and as a result we cannot calculate an exact percentage. However, it is likely that the female FTF for which there was no information were childless, as the presence of a child would be typically mentioned explicitly in court decisions. Following that assumption, it could be inferred that 46 percent of the female FTFs were mothers at the time of departure for Syria and Iraq.

a considerable physical distance between mother and child. This is notably the case in a bigger country such as France, where the unique QPR for female VEOs in Rennes can be far away from the residence of their families. But even in a small country such as Belgium, the distance can be considered as consequential, and therefore hampering the right to regular visits.⁸⁸

In every country, regular contacts and visits can be maintained between the mother and child, unless explicitly prevented by a court order in relatively exceptional cases. The modalities and frequency of these contacts vary from one country to another.

Overall, practitioners interviewed for this book generally consider that children constitute a favourable condition to the rehabilitation process of female VEOs. The perspective of reuniting with their children gives mothers a high motivation to behave well in prison, and it also gives them a positive future outlook. However, children can also undermine the rehabilitation process, notably if that is the only issue that female VEOs are willing to talk about. Under certain circumstances, the issue of children can also become a factor of vulnerability for female VEOs, if it leads to specific grievances (such as the lack of contacts with the child), or if it contributes to a narrative of victimisation.

Rehabilitation and Reintegration

Rehabilitation in Prison

All four countries covered in this book consider that it is important to offer rehabilitative support to female VEOs in prison, in order to maximise their chances of reintegration and lower the risk of recidivism. In this regard, all four countries favour programmes that focus on *disengagement* from a terrorist milieu and a change of behaviour, rather than *deradicalisation* from radical Islam. However, this does not mean that religion is completely absent from these programmes, as it can be part of the programme if the beneficiary is responsive to it.

Rehabilitation programmes generally consist of regular discussions with the female VEOs, and at least in some countries, notably in France, these are combined with the organisation of specific activities like sporting activities, workshops, or conferences. These programmes are multi-disciplinary, covering potentially psychological, social, or religious aspects, and are tailored to the needs of the beneficiaries. This general approach is shared across all four countries, and is usually considered as a good practice, although specific modalities can vary. For instance, these programmes can start during pre-trial detention in some countries, such as Belgium, whereas they only start after conviction in Germany. In France and the Netherlands, this work is mostly led by agents of the state, whereas in Belgium and Germany it is performed, at least in part, by non-profit civil society organisations. Finally, there can also be differences in rehabilitation programmes within countries. For instance, in France, the rehabilitation offer will be greater for female VEOs in QPR than for those in ordinary detention. In the federal states (Belgium and Germany), the offer can vary from one federal entity to another. The services in charge of rehabilitation work are indeed different in Belgium, between Flanders and Wallonia, and in Germany, between the different federal states (*Bundesländer*).

Existing research has identified some gender-specific aspects that rehabilitation services should take into consideration, particularly for their work in prison. This includes:⁸⁹

- Trauma: female returnees will likely have experienced multiple traumas in Syria and Iraq, and rehabilitation staff could be trained to recognise and address these traumas effectively.

- Reconfiguring motherhood: motherhood was “weaponised” by ISIS, and it is therefore necessary to help female returnees rethink what motherhood means and entails.
- Support networks: female returnees often have difficult relationships with their families. Involving the families in the rehabilitation work, when possible, or helping female VEOs to develop an alternative support network is essential to consolidate the disengagement process.

The issue of trauma seems particularly relevant for female returnees, who are likely to have experienced a number of such traumas in the conflict zone or in Kurdish camps, such as the death of a child or husband, sexual abuse, and other war-related traumas. This can result in post-traumatic stress disorder (PTSD), which is reportedly often undiagnosed for women as symptoms are different than for men.⁹⁰ This seems particularly relevant because PTSD could hamper disengagement efforts. Furthermore, research suggests that PTSD is more prevalent among female violent offenders than among male violent offenders. As such, it could therefore constitute a specific risk factor of recidivism among female VEOs specifically, although more research is clearly needed.⁹¹ Sexual or physical abuse (in Syria, or prior to radicalisation) should also be of particular concern, as some research suggests that gender-based violence constitutes a particular risk factor for criminal recidivism among female offenders.⁹²

Another recommendation that emerges from existing research is to ensure gender-mainstreaming in rehabilitation work, which is defined as the “process of assessing the implications for women and men of any planned action, including legislation, policies or programmes.”⁹³ As a result, it has been recommended that prison staff and rehabilitation services, among others, should reflect on possible gender stereotypes that underpin their approaches and potentially affect their effectiveness.⁹⁴ Some rehabilitation stakeholders interviewed for this project acknowledged that they did conduct a specific internal reflection on such possible gender stereotypes, notably in Belgium and the Netherlands, although it does not appear to have resulted in a change of approach.

Overall, rehabilitation programmes for female VEOs are essentially the same as those for male VEOs. The stakeholders interviewed for this book did not consider it was needed, nor appropriate to develop gender-specific programmes due to the tailored nature of these programmes, which already allow for a gender-sensitive approach, taking into account particular needs or experiences of female VEOs. Issues that are more specific to women, like sexual violence or the relationship to children, can be fully addressed in this context.

False Compliance

The lack of compliance of female VEOs with prison measures and rehabilitation programmes, and more specifically the intentional attempt to deceive the prison authorities by “faking” deradicalisation has been a growing concern among policy-makers and practitioners in Europe.⁹⁵ This issue, known as *false compliance*, was particularly salient after some male terrorist offenders committed a terrorist attack after having deceived the authorities, sometimes to the point of being considered as model inmates or success stories in prison. Some notable examples include:

- Bilal Taghi stabbed two prison guards in France, in 2016. Known for radicalisation, the inmate bragged that he had deceived the prison staff in believing he was harmless before his attack.⁹⁶

- Usman Khan murdered two persons in the UK, in 2019, in a terrorist attack. He had been convicted for terrorism in 2012, and prior to his release had been considered a model prisoner and was featured in the promotional material of a major deradicalisation programme.⁹⁷

In the specific case of female VEOs, false compliance can be found in the cases of some women who had deceived the authorities upon their return to Europe after a stay in ISIS' so-called caliphate, and then (tried to) travel back to Syria – like Jennifer W. in Germany or Julie B. in Belgium.⁹⁸ It can also be found in the highly mediatised cases of some women detained in the Kurdish camps in Syria, like Shamima Begum, who were considered by the media and the authorities to be hiding their radical ideas in order to be repatriated.

These concerns are legitimate, particularly when expressed by services whose mission is to maintain security and prevent re-offending. However, the issue of false compliance is often misunderstood and subject to fantasies, such as the idea that all terrorist offenders would practice so-called *Taqiya* in prison to dissimulate their beliefs. Hence, some nuance is needed. First, a distinction should be made between false compliance and *non-compliance*. Non-compliance could be defined as the lack of cooperation with the relevant services and programmes, which can be motivated by a variety of factors, including lack of trust or defiance. False compliance can be defined as the intentional attempt to lie or deceive the authorities, for instance by minimising one's criminal responsibility or hiding one's ideological commitment. Both issues are potentially challenging in the context of rehabilitation and reintegration of female VEOs, although false compliance is considered more problematic if undetected.

With regard to false compliance specifically, it is important to highlight that the motivations underpinning such behaviour are a key consideration. Indeed, it is widely recognised that lies and deception are quite common among criminal offenders, including among VEOs.⁹⁹ Among female VEOs, false compliance can be motivated, for instance, to avoid self-incrimination (during pre-trial detention), or to be granted early release or access to children. False compliance only becomes seriously concerning when it is done with the aim to lower security vigilance, with the intention of facilitating (terrorist) re-offending.

Prison staff and rehabilitation services are usually expecting a degree of deception from female VEOs, so there is allegedly no naivety from their point of view. However, security services (and to a lesser extent psycho-social services) will tend to approach it very differently from rehabilitation services. The former will seek to verify female VEOs' claims, and possibly confront them with their lies or incoherence, in order to better assess their risk and intentions. The latter put less emphasis on discovering the truth, and will often refrain from challenging lies, even when detected, as they focus more on building trust and steering behavioural change. However, some scholars consider that rehabilitation services should actually care more about false compliance, because it can eventually hamper negatively the trust vested by policy-makers, security services, and citizens into these programmes.¹⁰⁰

When seeking to detect possible instances of false compliance, some challenges are specific to female returnees. First, there is often less evidence available about the full extent of the activities committed by female VEOs in Syria and Iraq, compared with men, and it is therefore more difficult to challenge their claims upon return. Second, female returnees have often a fairly stereotyped discourse upon return, as highlighted by French interviewees, which they have sometimes practiced for several years before repatriation. While this raises suspicion among prison staff, it remains difficult to challenge due to the aforementioned challenge. Third, some female returnees were considered by the security services to have already disengaged from violent extremism prior to their return. However, some of them had maintained the

appearances of commitment to the jihadi ideology while in Syria, in order to avoid being arrested by ISIS during the caliphate era or being persecuted in the Kurdish camps by female jihadi believers. As a result, some female returnees have become liable to statements or actions they made or took while practicing what could be called *reverted false compliance*.

Overall, many stakeholders interviewed for this project emphasised that false compliance performed with the specific intent to re-offend is very rare and unlikely. Above all, it is considered to be very complicated for female VEOs to conceal their ideology and intentions over an extended period of time, in light of all the observation measures and intelligence-gathering methods in place, the limited privacy in a prison environment, the regular risk-assessments performed by prison staff, as well as frequent exchanges with rehabilitation services or other support services.

Recidivism

The issue of false compliance is of particular concern when linked to the fear of terrorist recidivism. Policymakers and CT practitioners, including some of the interviewees for this book, are highly concerned about the risk that some released terrorist convicts could return to terrorist activities.¹⁰¹ In the past few years, there have been some prominent cases of terrorist re-offending in Europe. For instance, on 2 December 2023, in Paris, a man who had been previously sentenced to five years imprisonment in 2016 for planning a terrorist attack, killed one person in a terrorist attack. Other terrorist attacks have been committed by released terrorist offenders in Europe, notably in London and Vienna, in 2019 and 2020 respectively. Such attacks are particularly alarming for at least two reasons: First, they seem to suggest that the rehabilitation process and the security monitoring system have failed, hence raising serious questions about the effectiveness of counter-terrorism policies. Second, given that several thousands of individuals have been convicted or detained for terrorism over the past decade in Europe, and given that hundreds are set to be released in the coming years, policymakers are concerned about what they perceive as a significant pool of potential terrorist recidivists.

However, research suggests that terrorist recidivism is extremely rare.¹⁰² Only a very small minority of individuals re-engage in terrorist activities after their release from prison – usually around five to fifteen percent. In France, almost 500 terrorist inmates were released between the summer of 2018 and the end of 2023.¹⁰³ Among these individuals, only one case of recidivism led to a lethal attack. Moreover, research on released Dutch terrorist offenders suggests that convicted terrorist might also have lower risks of criminal recidivism, that is of committing another criminal offence (but not a terrorist one).¹⁰⁴ Such findings are in stark contrast with the general rates of ordinary criminal recidivism – usually around 50 percent. The exact reasons for these low recidivism rates among terrorist offenders are not yet fully understood, however. Some hypotheses include the heavy security measures surrounding released terrorist offenders, mitigating the risk of recidivism; personal trajectories out of terrorism, notably through maturation and desistance processes, or by developing pro-social bonds; or the cyclical nature of terrorism, according to which terrorism might be less prevalent by the time terrorist convicts are released.

Research on terrorist recidivism is still fairly limited, and research looking into female VEOs recidivism is basically non-existent. The very low number of female terrorist convicts is clearly a barrier to such research. The focus of this book was not on recidivism, and the timeframe is not sufficient to measure recidivism scientifically. However, some observations can be made, based on our sample and findings. Out of the 262 women convicted for terrorism in the four countries covered by this book, there were only two cases of known terrorist recidivism in

Belgium, three ambiguous cases in France,^{xx} and none in the other two countries. Even cases of ordinary criminal offence by released female VEOs seem extremely rare, so far. Caution is needed, nevertheless, as many women in our sample are still in prison, or were only recently released, and have therefore had only limited opportunities to re-offend.

Security services monitor the risk of recidivism very closely. To begin with, as mentioned above, some services, notably in the Netherlands, consider that some of the female returnees in prison still embrace the jihadi ideology.¹⁰⁵ Furthermore, security services conceive the risk of terrorist re-engagement in quite broad terms. Whereas terrorist recidivism rates are usually calculated on the basis of two convictions for terrorism offences, security services take into account the risk that some female VEOs might return into extremist milieus, or raise their children into extremist ideology, none of which would automatically lead to a new conviction. Some released female VEOs could also be involved in non-violent terrorist activities, such as preaching or recruitment, financing (for instance to the benefit of women who remain in Syria and Iraq) or marrying another radicalised person. This being said, the low rates of terrorist recidivism observed so far are still remarkable given the extensive security measures deployed to monitor released VEOs, and the broad range of criminal offences available to arrest and convict suspects of terrorist activities, including non-violent ones.

Overall, security services recognise that many female VEOs are likely to take their distance with violent extremism. Many female VEOs in prison are considered to have already disengaged, at least in part, and some female returnees were considered to have desisted from ISIS even before their return. The Dutch NCTV considers that “some female returnees who have been released from prison in the past few years appear to have distanced themselves from jihadist networks for the time being, while others are thought to have remained active in jihadist circles”¹⁰⁶. In Belgium, security services consider that more female VEOs are on a trajectory of disengagement than not. In France, according to intelligence services, about 60 percent of the released terrorist offenders would be disengaged from the jihadi ideology – although that figure does not distinguish per gender.¹⁰⁷ However, it is important to reiterate here that disengagement and deradicalisation are not linear processes. Individuals may disengage and then re-engage, following different life circumstances. As such, the numbers above should be interpreted with caution. It is also important to highlight that not all cases of terrorist recidivism demonstrate a case of false compliance. Indeed, individuals might have genuinely disengaged in prison, and then relapsed into terrorism after their release.

One particular variable that could further mitigate the risk of recidivism among female VEOs is the fact that they have much less criminal antecedents compared with male VEOs. Indeed, whereas male VEOs frequently show previous criminal records,¹⁰⁸ our data suggest that this is only very rarely the case for female VEOs. Only 22 female VEOs in our sample had criminal antecedents.^{xxi} Since criminal antecedents are considered one of the best variables to predict recidivism, the low rate of criminal records among female VEOs could be source for optimism.

^{xx} Terrorist recidivism was considered as two convictions for a terrorist offence in the same country, separated by a clear period of inactivity or disengagement (ideological or physical). One French woman had a conviction for AMT and one conviction for apology of terrorism, but since there was a partial overlap in the indictment periods, it is not clear whether this case meets the criteria to be considered as terrorism recidivism. The other two cases from the French dataset included a breach of administrative measures, which again does not seem to fully meet the criteria for terrorism recidivism.

^{xxi} Based on a total sample of 277 prosecuted female VEOs, among which data was unavailable for 114 (although missing data very likely suggested the absence of criminal records).

Reintegration and Post-release Monitoring

Most female VEOs will not spend their entire sentence in prison, similarly to male VEOs. After some time, they could benefit from an alternative detention regime (such as electronic surveillance regime, or daily exit permissions), or be released under probation conditions. More rarely, some will be freed only at the very end of their sentence. Upon release, a particular challenge is to ensure the continuity of security and care measures, through the so-called prison-exit continuum. This requires to not only have specific care and security measures available for released offenders, but to also ensure a proper coordination between prison and post-prison services.

In all four countries covered in this book, the preference is to release female VEOs under probation measures. This allows to maintain a form of enforced support and social control over released offenders, at least during the first months after release, which are considered as crucial to a successful reintegration. Indeed, research suggests that criminal recidivism is most likely in the first six months after release, and the risk significantly decreases after the first year.¹⁰⁹ In some countries, notably in Belgium and the Netherlands, probation officers already participate to multi-stakeholder platforms in prison, which allows them to better prepare reintegration in advance, notably by compiling all relevant information about risks and needs assessments, and to build some trust with the beneficiary.

Participation in a rehabilitation programme can be set as a mandatory condition by a judge, although this is not a systematic measure imposed on all female VEOs. Rehabilitation can also be pursued on a voluntary basis. Furthermore, even when mandatory, rehabilitation after release is not necessarily performed by the same services as those active in prison, which may therefore discontinue an ongoing disengagement process.

Some administrative measures can be imposed on female VEOs, in addition to or in place of probation measures. This can include for instance the freezing of certain assets, or restrictions on travels. France has advanced this approach the furthest through a new law adopted in 2021 that allows respective authorities to impose very strict administrative measures for up to one year after release, essentially equivalent to probation measures (such as daily checks to a police station).¹¹⁰ The law has been criticised for being vague and for lacking clear and precise conditions for the implementation of these measures. This could violate the principle of legal certainty and potentially lead to arbitrary use of these measures.¹¹¹

Independent from probation and rehabilitation, female VEOs (like male VEOs) will continue to be monitored by security services. In most countries, there are specific multi-stakeholder platforms tasked to coordinate the monitoring of VEOs. In the context of these platforms, services can decide to favour a security-driven approach (such as a close monitoring by intelligence services), or a socio-preventive approach (such as offering psycho-social and reintegration support). These decisions are notably informed by a risk assessment, based on all information available to the services. Interestingly, the risk assessment used by services outside prison is mostly not the same as the one used by prison services. This is logical because the monitoring conditions and risk environment are very different in prison and outside prison, and different services have different needs and tools available. Yet, this prevents developing a longitudinal risk evaluation of convicted VEOs.

All security measures to monitor released VEOs are essential, but their potential counter-productive effects and human rights considerations should also be acknowledged – and possibly mitigated. After serving a prison sentence, such measures can curtail the exercise of several human rights, such as the right to work and the freedom of movement, and in the long-term undermine a successful reintegration into society. Indeed, very strict security measures

like restrictions on movements, regular police checks, or being blacklisted by financial institutions will likely hamper the reintegration of female VEOs. Without a bank account, for example, it is very hard to rent an apartment or to find a job. Furthermore, some of these measures might increase a form of social stigmatisation (as a “terrorist”) that again can hamper reintegration. For instance, it can be difficult to explain to an employer or to friends why someone must go to a police station daily, without exposing their past. Overall, it is still probably too early to evaluate rehabilitation and reintegration programmes for female VEOs after their release. In spite of the very low recidivism rates mentioned above, some concerns remain. The general consensus among stakeholders interviewed is that rehabilitation and reintegration are fragile processes, calling for cautious assessments. This relates to the question of success: beyond the absence of recidivism, what is the fundamental objective of the rehabilitation and reintegration services? Some stakeholders offered some alternative criteria (such as coming to peace with one’s past), but these are hardly measurable and unlikely to be used by policymakers. This book suggests that there are some reasons for optimism regarding the rehabilitation and reintegration of female VEOs, although more time is still needed for a proper evaluation.

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Conclusion and Recommendations

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No European country had dealt with such a large number of female violent extremist offenders (VEOs) before the rise of the Islamic State in Iraq and Syria (ISIS). With increasing numbers of female returnees from the so-called caliphate, in addition to VEOs being active from their home countries, authorities had to overcome unprecedented challenges related to the prosecution, prison management, rehabilitation, and reintegration of these women. The approaches adopted in the four countries covered in this book since 2012 (Belgium, France, Germany, and the Netherlands), provide some important findings on good practices and ways forward in the management of female VEOs through the criminal justice system.

It appears that the first wave of female returnees who came back voluntarily before ISIS established its caliphate were not systematically investigated or prosecuted. When female returnees and VEOs started to be prosecuted more systematically around 2015, the authorities initially struggled to prove what the exact roles of the women had been during their stay in Syria and Iraq, or what activities they were involved in, notably because many women under ISIS were confined to their household.

Based on the analysis of 283 court decisions relating to the prosecution of female VEOs across four countries since 2012, our data shows that the majority of women have been convicted for membership in a terrorist organisation. Prosecutors can rely on strong investigative powers when prosecuting for membership offences. Other advantages of relying on membership offences include the relatively low evidentiary thresholds required and the easier access to evidence that is not necessarily located in the conflict zone. Yet, this commonly favoured narrow prosecution route tends to overlook how the underlying conduct could qualify as serious domestic offences or core international crimes. Moreover, prosecuting for mere membership offences does not reflect the entire range of activities female VEOs were engaged in, in Syria or Iraq.

However, some countries have started to prosecute female VEOs for the full range of crimes they have committed, when appropriate, including for core international and/or domestic crimes, resulting in a more accurate picture of their culpability. Additionally, this so-called cumulative charging does more justice to victims, whether they are Yazidis, or the children of these women. Especially the prosecution of sexual- and gender-based violence (SGBV) crimes as core international crimes can lead to more accountability for the Yazidi victims. Prosecuting cumulatively for both terrorist offences and core international crimes or domestic offences can also lead to longer sentences.

In recent years, the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011 (IIIM) and the Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) have played a vital role in collecting and preserving evidence from Syria and Iraq, as well as providing support to national prosecutions. Other factors that have contributed to the successful prosecution of female VEOs, is the use of so-called battlefield evidence and the proliferation of civil society organisation (CSOs) involved in pursuing accountability.

Structural investigations can also be a useful tool in the context of crimes committed in relation to the conflicts in Syria and Iraq. Working with national migration services, CSOs, and outreach to victims can also be helpful means for investigation authorities to gather evidence.

In the media, female VEOs have often been depicted as either naive victims or monsters. Our findings, however, suggest a more nuanced picture. Women can be both victims and perpetrators, including at the same time, like the cases of Ines M. or Yousra L. explored in this book. They can also suffer from physical or substance abuse, mental health issues, or traumas experienced prior to or during their radicalisation. Several girls and young women were vulnerable, whereas other women had more agency. Many women were involved only in non-violent activities, but some were also involved in violent activities, either within the household, or by inciting or plotting terrorist attacks. In Syria, their contributions included running a joint household with ISIS fighters, raising children according to ISIS ideology, involvement in recruitment and propaganda activities, and even participating in the enslavement of Yazidi girls and women. For the women who did not travel, our data shows that the most common activities are related to providing some sort of logistical support, arranging travels, and spreading propaganda.

A number of factors were taken into consideration by courts in determining the appropriate type and length of sentence for the female convicts, some of which are more gender-specific, like history of sexual or domestic violence and motherhood.

The question of whether there is a gender-bias in the prosecution of female returnees is difficult to fully answer, however, because our research only focused on female VEOs. What can be said with certainty is that the number of prosecutions of female returnees and VEOs, as well as the number and types of charges filed in these cases, has increased over time. For the rest, our findings suggest that prosecutors and judges are taking personal circumstances, including those relating to gender, into account to ensure the appropriate sentence is given. Yet, despite the fact that most female VEOs across all four countries have been convicted for membership in a terrorist organisation, the types of sentences being handed down against female VEOs differ between countries. The reason for this is that the penalties and sentencing practices for terrorist offences differ across the countries. Type of sentence that can be imposed can vary and conditions that can be imposed in combination with a prison sentence also differ between the four countries. Additionally, certain parts of the sentences can be suspended or a range of measures such as counselling can be imposed during probationary period. These factors lead to a wide range of length and types of sentences handed down against female VEOs across the four countries, despite often similar convictions of these women.

While the length of prison sentences handed down against female VEOs slightly increased over the past decade across all four countries, it never came close to the maximum applicable length of sentences. In some countries, there are proposals to increase the maximum length of sentences for terrorism offences. However, increasing the maximum available sentences will

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not likely lead to significantly longer sentences for female VEOs with similar profiles than the ones in the dataset, who were not engaged in combat activities.

A number of women have been tried under juvenile justice, where the primary aim is rehabilitation and reintegration whilst ensuring accountability. When holding young female VEOs accountable, juvenile justice could be considered to try adolescents above the age of eighteen years, where appropriate. Especially young female returnees who have joined a terrorist organisation at a very young age and thus spent their formative years in a conflict zone may be vulnerable and/or at risk of being recruited in detention. They could benefit from the broad range of rehabilitation measures available under juvenile justice, whether or not in combination with (non-) custodial sentences. In some European countries, convicts who were sentenced under juvenile justice can serve their prison sentence in dedicated youth detention facilities.

In several European countries, a person can be deprived of his or her nationality after a criminal conviction, and this measure has been applied to a number of female VEOs. Deprivation of nationality is considered a very severe measure with counter-productive effects on rehabilitation efforts. Especially when a return decision and no entry ban is issued, it can create many problems, and even legal vacuums when the country of the other nationality does not want to take their citizens back or when the women cannot be expelled due to risk of human rights violations.

Looking at female VEOs in prison, one can see that over the past few years, the number of inmates has increased significantly. Simultaneously, the population of male VEOs in prison was decreasing, hence posing a new challenge to prison authorities. The time that these women have to spend in prison after conviction is, however, relatively low. Given that other factors such as early release and time spent in pre-trial detention might further shorten the post-conviction imprisonment, actual detention time is fairly limited for many female VEOs.

When in prison, it appears that female VEOs neither pose a major security threat, nor have they been actively recruiting or radicalising other inmates. Nonetheless, the risk should not be disregarded or lead to complacency. In all four countries, the prison administrations eventually developed a similar approach to the management of female VEOs than what was already deployed for male VEOs, when confronted with the rising number of female VEOs in prison. One key difference, however, is that prison capacities for female inmates are much smaller and more limited. On the one hand, this generally limits the capacity to actually decide on prison regimes and placement, as options are counted. On the other hand, smaller units are often easier to manage. Finally, risk assessment tools are the same as those used for male VEOs and are gender-sensitive rather than gender-specific instruments.

There are perhaps two aspects that are more specific to the management of female VEOs in prison, compared to men, and are therefore worth highlighting. First, many female returnees seem to suffer from various traumas, including post-traumatic stress disorder (PTSD), which could hamper attempts to rehabilitation and reintegration. Second, many female returnees have been repatriated with their children, creating a particular challenge to maintain a close relationship between mother and child, which is often considered a favourable condition to rehabilitation and reintegration for these women. However, in certain circumstances it can also become a vulnerability factor, if the women cannot see their children enough, for example, or if there is consistent lack of support with childcare.

In-prison rehabilitation efforts in all four countries encompass a multi-disciplinary approach focussing on disengagement and behavioural change, with aspects of religious counselling. These programmes are tailored to the needs of the beneficiaries. Our research suggests that rehabilitation workers recognise the need to take a gender-sensitive approach to their work and have thought carefully about it. Nonetheless, no gender-specific approaches were developed yet. Further, many rehabilitation programmes have not yet been evaluated, particularly with regard to female VEOs, so it is not possible to demonstrate whether the practitioners' intuition is correct or not.

There is a broad concern that some female VEOs could try to deceive prison authorities and rehabilitation workers, in order to fake their deradicalisation – a concern known as *false compliance*. Our research suggests that this is possible, and in fact likely under several circumstances, notably, to benefit from an early release or to be reunited with their children. However, false compliance can often be detected, and it is considered unlikely (although not impossible) that female VEOs fake compliance in order to commit a terrorist offence.

Across the four countries, there is a prevailing preference to release female VEOs from prison under probationary measures with the aim to provide some social control and offer support to these women, including in the form of rehabilitation, especially during the first few months after imprisonment, just like for men. Administrative measures and monitoring through security services can provide an additional layer of control. However, these measures must be weighed carefully against the women's fundamental rights, including freedom of movement, and their potential counter-productive effects, such as stigmatisation, which can potentially undermine successful reintegration.

The risk of recidivism among female VEOs is considered relatively low, although data is limited, and more time is needed to validate this assumption. This does not necessarily mean that the women do not pose a risk per se. A few could return to terrorism, while a larger number could remain ideologically radicalised and be part of an extremist milieu. While the latter will not be considered as recidivism if it does not lead to another conviction for terrorism, and might not cause an immediate threat, it could still be considered as a concern by the security services. Female returnees constitute a significant part of the overall returnees' contingent, and some of them will continue to convey the legacy of the caliphate, within their family, close circles, as well as online. Prosecutors and security services have acknowledged over the past decade that their concern about jihadism and terrorism goes beyond attacks, to include support for ideology, radical networks, or terrorist groups. In this regard, female VEOs might play as much a role as men in the longer term.

These and more lessons drawn from this comparative research, can firstly inform other countries in developing tailored prosecution, prison management, rehabilitation, and reintegration strategies for female VEOs. Secondly, some of the lessons, particularly regarding prosecution, could also be applied to male returnees – if and when – they come back. In Germany, for example, a male returnee has recently been charged for the war crime of pillaging, as many female returnees before him. Finally, although the number of convicted women within other ideologies, such as the far right, the far left, and anti-institutionalism is relatively low, the number of women particularly in the far right is increasing and would allow to compare the management of the female VEOs across ideologies in the future.¹

Considerations for Future Research

In the course of our project, and before formulating some recommendations for policy-makers and practitioners, we have identified some possible avenues for future research. While we are convinced that our findings have contributed to a better understanding of the management of female VEOs throughout the criminal justice chain, we believe that some knowledge gaps remain and should be addressed.

First, there is still the need to conduct more research into the specific profiles, trajectories, and roles of female VEOs. While this was not the purpose of our project, we did highlight some important findings in this regard. However, more research could further explore these aspects in the context of specific ideologies and across ideologies. Specifically, there is a need for more research based on large datasets, in order to reach more reliable findings. A better understanding of these profiles, trajectories, and roles would be necessary notably to further identify factors of risks and vulnerabilities of female VEOs, thus informing their management and rehabilitation, in prison and after release. This observation is based on the assumption that a better understanding of the factors that led women to radicalisation will improve practices to help them exit violent extremism. In terms of risks, our research suggests that more work could be done on the psychopathology of female VEOs, as well as on trauma (particularly PTSD and SGBV), with regard to both their radicalisation and risk of recidivism.

Second, our research directly addressed the issue of gender in the way the criminal justice system approaches female VEOs. We have concluded that most approaches are already gender-sensitive, and that there is no need for gender-specific approaches. However, gender-sensitive approaches and gender mainstreaming are common recommendations across scholars and practitioners. Hence, we believe that this conclusion still needs to be further tested. This could for instance cover questions such as ‘what are possible biases, stereotypes or misconceptions that underpin the work of criminal justice stakeholders’?

Third, the expanded use of membership offences as demonstrated by this research and the increasing criminalisation of the pre-crime space and of other forms of support to terrorism is a clear trend. As a result, women could more easily fall under counter-terrorism laws. Further research could explore more systematically how the evolution of counter-terrorism legislation and practice affect women in particular. In addition, there is insufficient research conducted on which gender-specific mitigating and aggravating factors, such as motherhood, are taken into consideration during sentencing. Additional detailed analysis of case-law could provide interesting findings in this regard with a view to potential gender-bias.

Fourth, our research suggests that most female VEOs are considered as non-problematic in prison, and show significant rates of disengagement. This would however call for more validation, based on more data and a longer timeframe. One possible avenue to test disengagement and recidivism of female VEOs would be to work with a particular sample in a longitudinal manner, over a period of several years, to measure the different types of re-engagement (from interacting with extremist milieus, to participating to terrorist activities), and identify specific challenges and risk factors.

Finally, whereas our project focused specifically on female VEOs, we think that more research could be done in a comparative manner across gender. A weakness of existing comparative studies is that they compare large samples of male VEOs with very small samples of female VEOs. More systematic and consistent comparisons could improve our understanding on similarities and differences across gender. For instance, such a comparative study could seek to explore whether the criminal justice is truly more lenient towards female VEOs as opposed

to male VEOs, as some research has suggested, and why. Researchers could also compare more systematically the profiles, roles, and risk factors across gender.

Recommendations

Based on our research, building on a unique dataset and on a large number of interviews with stakeholders across four European countries, the following recommendations, aimed to inform evidence-based policies and practices in the management of female VEOs that can be made:

1. National authorities and international organisations should improve access to gender-disaggregated data for researchers. This would include granting access upon motivated request to court decisions and national databases. European countries could also consider sharing more systematically key data in a centralised manner to allow for research on larger samples, for instance through the European Database of Terrorist Offenders (EDT). This type of information can help to understand roles and profiles of female VEOs, and therefore formulate evidence-based recommendations to improve prosecution, prison management, rehabilitation, and reintegration approaches for female returnees and VEOs.
2. In order to hold female returnees and VEOs accountable for the full range of crimes they have committed, prosecutors should conduct structural investigations when it comes to a complex set of crimes and rely more on cumulative charging when appropriate.
3. States should invest in expanding the capacity and expertise to prosecute for core international crimes, including SGBV crimes. This relates to sufficient staffing of respective units within the prosecution and investigation services, as well as offering training relating to international criminal law, psychosocial aspects of working with survivors of grave crimes, and foreign language skills.
4. In order to identify and use potential evidence, policymakers and prosecutors need to invest in inter-agency coordination. On a national level, different agencies, such as migration offices and social workers need clear guidance on how to detect potential witnesses and evidence, and how to process such information in a secure manner without doing harm to survivors. At the international level, domestic prosecutors, investigators, and judicial services should be able to meet in different fora to exchange good practices and challenges in managing female VEOs with their counterparts. For example, several European countries have pooled resources by liaising with the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network) that is hosted by Eurojust. Considering some positive outcomes, more cooperation with the Genocide Network and other relevant institutions should be encouraged.
5. Investigation and prosecution services should further consider to actively reach out to victim communities in their countries, to identify and source potential evidence. This can be done by organising meetings with civil society organisations representing victims, or by providing multi-language factsheets on how to report crimes and exercise victims' rights. Such approaches are particularly relevant for countries that host large Syrian and Iraqi diasporas.
6. While trials *in absentia* create a public record of some crimes allegedly committed by certain individuals, they have only limited impact when it comes to achieving full accountability. Firstly, such trials often do not address the full range of crimes committed by female VEOs or other individuals who are still abroad. Secondly, they

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- can hinder the accused's right to be present at trial and to pursue legal remedies. Trials *in absentia* should therefore only be pursued with respect to fundamental safeguards.
7. When dealing with juvenile and adolescent female offenders, the full extent of juvenile justice should be explored, such as education and rehabilitation measures, the use of non-custodial sentences, and increased protection of privacy of underaged offenders during trial. This also means applying juvenile justice to adolescents above the age of eighteen years when possible and appropriate.
 8. Considering the impact of a deprivation of nationality, it should be applied strictly on a case-by-case basis by an independent judge, allowing to take the personal circumstances into account and providing for sufficient remedies also in relation to potential no-entry bans and return decisions.
 9. When considering increasing the length of penalties, or minimum applicable sentences, lawmakers should carefully assess the severity of the culpable conduct and avoid imposing penalties for non-violent, supportive acts of terrorism that are as severe as the penalties applying to acts of terrorist violence. Judges must be provided with the necessary discretion to assess individual culpability taking the mitigating and aggravating factors into account.
 10. The prison security management of female VEOs should carefully adapt specific security measures on the risk assessment and categorisation of inmates. This requires having proper risk assessment tools and practices in place, as well as clear and non-arbitrary criteria to decide on specific security measures or regimes.
 11. In order to detect and address false compliance among female VEOs, it is important to ensure comprehensive observation measures, access to relevant information by prison services, such as criminal evidence and intelligence assessments and establish regular multi-agency case-management meetings to facilitate information exchange and joint evaluations. In doing so, relevant services should avoid complacency, recognising that women can pose a risk upon release, but also avoid overreacting by imposing stringent and possibly counter-productive security measures. Policymakers also have a responsibility here: when putting too much pressure on prison and security services, they are pushing them to make very conservative assessments and take more security measures than is necessary, hence increasing the burden on security services and possibly hampering the chances of rehabilitation and reintegration.
 12. Recognising the specific risks and needs of female VEOs, their access to psychological and psychiatric support should be guaranteed. As access to these capacities is often limited, notably for female inmates, particular attention should be given to this aspect. Furthermore, improving the ability to detect and address relevant traumas would likely increase the chances of success for rehabilitation and reintegration.
 13. It is important to ensure continuity of rehabilitation and reintegration programmes throughout the prison-exit continuum. This should be based on a continuity of services, and continuity of contact. For instance, a preference could be given to the continuation of prison-based rehabilitation programmes after release, when possible and appropriate. Furthermore, ensuring that probation officers already establish contact with the female VEO before release can be helpful in building trust and easing the post-release monitoring.
 14. Cooperation between security services and social services, including rehabilitation ones, is crucial, and should be facilitated through clear cooperation protocols, in prison and afterwards. While recognising that there is a tension between the fundamentally different visions of these services, sometimes hampering cooperation and information flow, it should be clear that cases of recidivism and false compliance eventually discredit all services alike in the eyes of citizens and governments.

15. It is essential to continue monitoring closely female VEOs after their release, as a number of them will continue to engage with extremism, and possibly terrorism. This is particularly important in the first months after release, when the risk of recidivism is the highest. Good practices identified for male VEOs apply to the monitoring of female VEOs as well, mainly: multiagency cooperation between all relevant services, including rehabilitation ones; and good information sharing mechanisms, notably to ensure that relevant information collected in prison is made available to relevant services post-release.
16. While post-release measures and monitoring through security services can provide an additional layer of control, restrictive administrative measures – such as being listed or reporting to the police – should only be applied with a clear legal basis, when strictly necessary, and be proportionate to ensure to fundamental human rights are protected, and in order to not undermine successful reintegration of female VEOs.
17. To further increase knowledge about female VEOs among policymakers and practitioners, it would be important to develop and implement tailored training programmes on gender-sensitive practices and gender-mainstreaming for key stakeholders, such as prison staff, probation officers, as well as judges and prosecutors. In line with this, all relevant services are also encouraged to reflect on their potential internal bias and stereotypes with regard to female VEOs.
18. In line with the notion of evidence-based policymaking, an in-depth evaluation of prison management practices, rehabilitation programmes and risk assessment tools, with a particular focus on their adaptation to the specificities of female VEOs and their gender-sensitiveness, is strongly recommended.
19. Long-term funding should be provided for rehabilitation and reintegration programmes as it is crucial to provide for long-term support for female VEOs, ensure sustainable results, and mitigate the risk of recidivism.

CONCLUSION

¹ Eviane Leidig, *The Women of the Far Right: Social Media Influencers and Online Radicalization* (Columbia University Press, October 2023). <https://www.degruyter.com/document/doi/10.7312/leid21016/html>.

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FEMALE JIHADIS FACING JUSTICE: COMPARING APPROACHES IN EUROPE

A significant number of women travelled to join the so-called Islamic State in Iraq and Syria (ISIS) and other terrorist groups since 2012. Additionally, many women supported jihadi groups while remaining in their home countries, and some of them were even involved in terrorist plots. Although the participation of women in terrorist activities is not new, the attention given to female violent extremist offenders (VEOs) has increased significantly in the past few years.

This book offers a unique data-driven study of the criminal justice responses to jihadi female VEOs in Belgium, France, Germany, and the Netherlands. It builds on insights resulting from interviews with 69 counter-terrorism practitioners and policy makers, as well as on the analysis of court decisions for 277 female VEOs prosecuted across four European countries since 2012. This book provides an overview of the various profiles and roles of these women, as well as an in-depth comparative assessment of applicable frameworks and practices related to the prosecution, prison management, rehabilitation and reintegration of female VEOs in these four European countries.

This book fills an important gap in the academic literature and seeks to inform evidence-based policies and practices to most effectively manage female VEOs through the criminal justice system in a way that is compliant with the rule of law and human rights. It results from a project funded by the Dutch National Coordinator for Counter-Terrorism and Security (NCTV).

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