



Council of the  
European Union

Brussels, 10 September 2014  
(OR. en)

13040/14  
ADD 1

DROIPEN 103  
ENFOPOL 262

**COVER NOTE**

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	5 September 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2014) 270 final
Subject:	COMMISSION STAFF WORKING DOCUMENT Accompanying the document Report from the Commission to the European Parliament and the Council on the implementation of Council Framework Decision 2008/919/JHA amending Framework Decision 2002/475/JHA on combating terrorism

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Delegations will find attached document SWD(2014) 270 final.

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Encl.: SWD(2014) 270 final



EUROPEAN  
COMMISSION

Brussels, 5.9.2014  
SWD(2014) 270 final

**COMMISSION STAFF WORKING DOCUMENT**  
*Accompanying the document*

**Report from the Commission to the European Parliament and the Council**  
**on the implementation of Council Framework Decision 2008/919/JHA amending**  
**Framework Decision 2002/475/JHA on combating terrorism**

{COM(2014) 554 final}

# Overview of the legislative measures adopted by Member States to transpose the three new offences introduced by the 2008 Framework Decision

## 1. PUBLIC PROVOCATION AS DEFINED IN ARTICLE 3(1)(A) OF THE 2002 FRAMEWORK DECISION AS AMENDED BY THE 2008 FRAMEWORK DECISION

Article 3(1)(a) defines public provocation as follows: *‘public provocation to commit a terrorist offence’ shall mean the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in Article 1(1)(a) to (h), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed;...*

**Belgium:** Direct incitement to commit a terrorist offence was already a criminal offence under the general provisions of Belgian criminal law, in particular Article 66(3) of the Criminal Code. The new law of 18 February 2013 introduced Article 140bis into the Criminal Code, criminalising any person distributing or otherwise making available a message to the public, with the intent to incite the commission of terrorist offences as defined in Article 137 (excluding threats to commit terrorist offences), where that message (whether or not directly advocating terrorist offences) causes a danger that one or more such offences may be committed.

**Bulgaria:** Public provocation is an offence under Article 320(1) of the Bulgarian Criminal Code. Public provocation is defined as openly inciting the perpetration of a crime by preaching before many people, by distributing printed works or by any other similar means. This provision is not limited to terrorist offences, but refers to crimes in general. In addition, Article 320(2) of the Criminal Code, a new provision, more specifically criminalises any person who openly abets the perpetration of a terrorist offence as defined in Article 108a(1).

**The Czech Republic:** Section 311(2) of the Czech Criminal Code extends the provisions applying to perpetrators of terrorist attacks to those who threaten to commit or publicly provoke others to commit such acts and to those who support terrorist actions financially, materially or in any other way. An act of provocation must be performed publicly, i.e. via the press or other distributed text, film, radio, TV, publicly accessible computer network or other method. The concept of public provocation is broader than the general ancillary offence of instigating a crime. Whereas instigation must be addressed to a concrete group of potential future offenders, public provocation under this provision can be indirect, i.e. can be addressed to an unknown and general group of addressees. In addition, the criminal responsibility for provocation arises independently of the terrorist attack being committed or attempted, again, unlike an ancillary offence to a terrorist attack.

**Denmark:** Section 136(1) of the Danish Criminal Code is an existing provision that criminalises, in general terms, public incitement to commit a criminal offence. Section 136(1) is understood to have been applied for the first time since 1938 in 2007, in the case against the

Danish-Moroccan Said Mansour. In addition to his conviction under Sections 114 and 114b of the Criminal Code for promoting terrorist activities, he was convicted under Section 136(1) for public incitement to commit a criminal offence and Section 266b on hate speech. He was accused of having produced and distributed materials that explicitly called for militant jihad, by depicting known terrorists and celebrating suicide bombings and the killing of innocent hostages. The production and distribution of the materials was considered to constitute incitement to commit terrorist acts.

In addition, Section 136(2) relates to public approval of a crime against the State (making reference to the terrorist offences in Chapter 13 of the Danish Criminal Code).

**Germany:** Section 91(1)(1) of the German Criminal Code (on encouraging the commission of a serious violent offence endangering the State) criminalises any person who displays or supplies to another person written material (as defined in Section 11(3)) that, in view of its content, could serve as instruction for the commission of a serious violent offence endangering the State (as defined in Section 89a(1)), if the circumstances of its dissemination are conducive to awakening or encouraging the preparedness of others to commit such an offence. Section 11(3) of the Criminal Code clarifies that the reference to written material includes data storage media. This provision refers to Section 89a(1) for the meaning of 'serious violent offences endangering the State'. As a result, it will not necessarily cover provocation to commit all of the offences listed in Articles 1(a) to (h) of the 2002 Framework Decision.

In addition, Section 91(1)(2) criminalises any person who obtains written material for the purpose of committing a serious violent offence endangering the State.

**Estonia:** Section 237/2(1) of the Estonian Criminal Code criminalises public incitement to commit a criminal offence, including a terrorist offence as defined in Section 237.

**Ireland:** Public provocation to commit a terrorist offence has not yet been criminalised. Section 6A(1) of the Criminal Justice (Terrorist Offences) (Amendment) Bill 2012 criminalises any person who, acting from within or outside of Ireland, distributes, or otherwise makes available, a message to the public, with the intent to encourage, directly or indirectly, the commission of an offence under Section 6(1) (terrorist activity or terrorist-linked activity), irrespective of whether an offence has actually been committed.

**Greece:** n.a.

**Spain:** Article 579(1), first sub-paragraph of the Spanish Criminal Law as amended in 2010 criminalises provocation, conspiracy and incitement to commit terrorist offences (as defined in Articles 571 to 578). In addition, Article 579(1), second sub-paragraph, criminalises the distribution or public diffusion by means of messages or slogans intended to provoke, encourage or favour the commission of any of the felonies specified in the chapter on terrorist groups and terrorist offences (Articles 571 to 580), or to create or increase the risk of their being committed.

In addition, Article 578 of the Spanish Criminal Code, as amended in 2010, criminalises the apology or justification, by means of public expression or dissemination of materials, of the felonies included in Articles 571 to 577 of the Criminal Code, and acts that entail the discredit, contempt or humiliation of victims of terrorist offences or their relatives.

**France:** Dissemination of public messages inciting crimes is an offence under Article 23 of the 1881 Act on the freedom of the press. Article 23 was modified in 2004 to explicitly criminalise the dissemination of messages via the internet: *‘Any person who directly incites the perpetrator or perpetrators of an act characterised as a felony or misdemeanour, by making speeches, shouting or making threats in a public place or place of assembly, or through writing, drawings, engravings, paintings, symbols, images or any other form of written, spoken or printed material sold or distributed, put on sale or on display in a public place or place of assembly, on placards or posters displayed for public view, or through any other means of communication with the public using electronic media, shall be considered an accessory to the act, where such incitement is acted upon.’* This provision explicitly covers only direct provocation, and provocation is only an offence if the incitement is acted upon (i.e. if a terrorist act is at least attempted, as explicitly clarified in Article 23). Article 24 of the same law covers situations where the provocation is not acted upon, but it still requires direct provocation.

**Croatia:** The Croatian Criminal Code was amended in 2008 and again in 2013 to include new provisions on the act of publicly instigating terrorism and on recruitment and training for terrorism. Article 99 of the Criminal Code criminalises any person who publicly puts forward ideas which directly or indirectly encourage the commission of an offence, including those offences referred to in Article 97 (terrorist offences) and Article 98 (financing of terrorism).

**Italy:** The Italian Criminal Code does not define public provocation to commit a terrorist offence as a specific criminal offence. Article 302 of the Italian Criminal Code establishes a general offence of inciting a person to commit any of the offences mentioned in chapters one and two of the same title of the Criminal Code. These include: promoting, directing or supporting an association which pursues terrorist objectives and providing assistance to those involved in the association (Articles 270bis and ter), attacks motivated by terrorist aims (Article 280), and kidnapping as a means of pursuing terrorist aims (Article 289bis). The new offences of recruitment and training for terrorism are also included, meaning that incitement to recruit or train is an offence (although this is not required under Article 4 of the 2002 Framework Decision as amended by the 2008 Framework Decision). Article 302 is a general provision on incitement to commit a crime and requires ‘incitement’ and not simply ‘the intent to incite’, as required by the definition of public provocation given in Article 3(1)(a) of the 2008 Framework Decision. This Article would therefore appear to cover only direct and not indirect provocation.

**Cyprus:** Article 12 of the 2010 law on combating terrorism, on the dissemination of terrorist material, defines public provocation as the distribution or dissemination by any other means of messages to the public, with the aim of inciting the commission of a terrorist offence. It criminalises attempts to distribute material or to make material available to the public by other

means, where this would create a risk of a terrorist offence being committed, irrespective of whether such an offence has actually been committed.

**Latvia:** Section 88/2 of the Latvian Criminal Code as amended in 2007 on incitement to terrorism and terrorist threats, criminalises any person who publicly incites others to or threatens to themselves commit an act of terrorism, where there are grounds for believing that such an act may be committed.

**Lithuania:** Article 250(1) of the Lithuanian Criminal Code criminalises any person who, by making public declarations verbally, in writing or in the media, promotes or incites an act of terrorism or any other crime related to terrorism, or expresses contempt for victims of terrorism.

**Luxemburg:** Public provocation to commit a terrorist offence is defined in Article 135(11) of the Luxemburg Criminal Code, introduced by the law of 26 December 2012 on the prevention of terrorism, as the distribution or otherwise making available of a message to the public, with the intent to incite the commission of a terrorist offence, where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed. Article 135(14) clarifies that penalties will be applied even if the terrorist act in question has not been committed.

**Hungary:** In 2013, Hungary amended Article 315 of its Criminal Code and introduced the offence of public provocation to cover preparatory activities that could lead to a terrorist offence being committed, such as instigating any of the criminal acts defined in Articles 314(1) and (2) of the Criminal Code. Article 315 distinguishes between two types of criminal acts, those to be committed by an individual and those to be committed as part of the activities of a terrorist group.

**Malta:** Article 328C(2)(a) of the Maltese Criminal Code criminalises any person who knowingly publicly provokes the commission of an act of terrorism (as defined in Article 328A). This Article was introduced as part of Subtitle IVA ‘Of Acts of Terrorism, Funding of Terrorism and Ancillary Offences’, introduced by the Criminal Code (Amendment) Act of 2005.

**The Netherlands:** Article 83b of the Dutch Criminal Code, introduced in 2009, defines preparatory acts for the commission of terrorist offences. These include public incitement and public provocation, in accordance with Articles 131 and 132, which set out penalties for these offences. The amendments to the Criminal Code enacted in 2009 increased the fine which can be imposed for both public provocation and incitement, in cases where the objective is to facilitate the commission of a terrorist offence (as defined in Article 83). Article 131(1) of the Dutch Criminal Code states that a person who, verbally, in writing or using pictures, openly incites others to commit any offence or act of violence against the public will be served with a prison sentence of a maximum of five years or a fourth-category fine. Article 131(2), as amended in 2009, increases this penalty by one third if the person was found to have incited others to commit a terrorist offence or to have prepared or facilitated a terrorist offence. Article 132(1) requires that any person who openly and publicly distributes material inciting

any other person or persons to commit any criminal offence against the public be served with a prison sentence of a maximum of three years or a fourth-category fine. Article 132(2) states that the same penalty will apply to any person who openly and knowingly distributes material, in which the message could be reasonably suspected to constitute general provocation. Article 132(3), as amended in 2009, increases this sentence by one third if the person was found to have disseminated material inciting others to commit terrorist offences or to facilitate or prepare terrorist offences.

**Austria:** In 2011, new offences of public provocation to commit a terrorist offence and the approval of terrorist acts were introduced in Section 282a of the Austrian Criminal Code. Austria had already criminalised provocation to commit a criminal offence and the endorsement of criminal acts (under Section 282) and sedition (under Section 283), thus making it an offence to incite or endorse a hostile act against certain groups (e.g. religious, racial or ethnic groups) in a way which might endanger public order. Section 282a(1) criminalises any person who publicly incites the commission of a terrorist act, as defined in Section 278c(1), if this conduct is not covered by provisions on participation in terrorist offences. Section 282a(2) criminalises any person who publicly expresses approval of a terrorist act, in a manner that is likely to create a risk that one or more such acts will be committed. The reference to ‘publicly’ requires that the message of incitement or approval is available to a significant number of people (around 30 or more) but does not require any specific number of people to have actually accessed the message. According to the Austrian authorities, the provocation does not have to relate to an individually specified terrorist act or activity. General provocation to commit terrorist offences is sufficient for these provisions to apply.

**Poland:** Article 255 of the Polish Criminal Code criminalises public provocation to commit an offence or a crime. This provision appears to cover a wider range of behaviour than the provisions on incitement in general (see e.g. Article 18 of the Polish Criminal Code), which apply to direct provocation or incitement only. Article 255a criminalising the public provision and dissemination of material that could facilitate the commission of an offence of a terrorist nature was introduced into the Polish Criminal Code in 2011. It appears to apply to situations where a perpetrator liaises with unidentified persons via the Internet with the intention of facilitating terrorist offences.

**Portugal:** The 2011 amendments to the Portuguese Law on Counterterrorism established three new offences, one of which was public provocation to commit a terrorist offence. Public provocation to commit a crime, more generally, was already an offence under Article 297 of the Portuguese Criminal Code, but only where the provocation related to the perpetration of a specific crime. Provocation to commit terrorist crime more generally was not covered by that provision, and it was therefore necessary to draw up a separate provision criminalising provocation in cases where no specific crime has been determined. Accordingly, Article 4(3) of the Law on Counterterrorism criminalises any person who, with terrorist intent, makes available to the public a message inciting the commission of the acts set out in Section 1 of Article 2 of that same law.

**Romania:** Act 187/2012, amending Law 535/2004 on preventing and combating terrorism, entered into force on 1 February 2014, and introduced a new provision criminalising the dissemination of terrorist propaganda. Article 33<sup>^</sup>2(4) criminalises any form of public promotion of a message by means of propaganda, with the intention of instigating the commission of any of the crimes listed under Articles 32(1) and (3) and 33(1) and (2)(e), irrespective of whether the message promotes terrorism directly or indirectly and of whether the crime has actually been committed. The term ‘by means of propaganda’ is defined in the law as the systematic dissemination, or the celebration or glorification, of certain ideas, concepts or doctrines, with the intention of convincing and attracting new followers. This new provision covers not only public provocation to commit terrorist offences (as defined in Article 32), but also public provocation to train or be trained to commit terrorist offences (as defined in Articles 33(1) and (2)).

**Slovenia:** In 2008, Slovenia amended its Criminal Code to introduce a new offence of incitement and public glorification of terrorist activities. Article 110(1)(1) of the Criminal Code criminalises any person who incites another person or persons to commit criminal offences under Article 108 (terrorist offences) by disseminating messages or making them available in some other manner with the intention of promoting terrorist offences and thus causes a danger that one or more such criminal offences may be committed. In addition, Article 110(1)(2) criminalises any person who directly or indirectly publicly glorifies or advocates terrorist offences (under Article 108) or publicly incites another person or persons to commit terrorist acts.

**Slovakia:** Section 419(2)(c) of the Slovakian Criminal Code, as amended in 2010, criminalises the public provocation to commit terrorist offences, as defined under Section 419(1), by advocating or justifying the commission of such offences, and thus creating the risk of such an offence being committed.

**Finland:** Chapter 34a Section 1(2) of the Finnish Criminal Code, as amended in 2007, criminalises any person who, with terrorist intent and in a manner that is liable to cause serious harm to a State or to an international organisation, intentionally publicly incites any of the offences referred to in Chapter 17 Section 1. Chapter 17 Section 1 defines public incitement as the incitement of a person, via mass media, by publicly addressing a crowd or in a generally published written or other form, to commit an offence, thus causing a danger that the offence is committed or attempted, or that public order or security is clearly endangered in any other way.

**Sweden:** In 2010, Sweden introduced an Act on criminal responsibility for public provocation, recruitment and training relating to terrorist offences and other particularly serious crimes. Section 3 of the Act criminalises public provocation, which it defines as, in a message to the public, urging or otherwise attempting to entice people to commit particularly serious crimes (as defined in Section 2 of the Act, including terrorist offences).

**The United Kingdom:** Section 1 of the Terrorism Act 2006 introduced the offence of encouragement of terrorism. This includes the publication of statements that are likely to be understood as direct or indirect encouragement or other inducement to the commission,



preparation or instigation of acts of terrorism or other specified offences (Section 1(1)). The publisher must either intend, or be reckless as to whether members of the public will be directly or indirectly encouraged by the statement (Section 1(2)). This offence also covers encouragement by praising events which occurred in the past or in other countries (Section 1(3)(a)).

These provisions cover any statement that indirectly encourages or induces the commission or preparation of acts of terrorism or the other offences specified, irrespective of whether such offences are actually committed. Members of the public must however be reasonably expected to infer from the statement that what is being glorified should be emulated (Section 1(3)). How a statement is likely to be understood is determined with regard both to its content and to the circumstances of its publication (Section 1(4)). Section 1(5) lists circumstances which are irrelevant, such as whether the encouragement relates to one or more terrorist offences of a particular description or offences generally, or whether or not a person was actually encouraged to commit a terrorist offence. Section 1(6) provides for a specific defence against an allegation of recklessly publishing a statement. This is available to a defendant if his or her statement did not represent his or her view and did not have his or her endorsement. The evidential burden is placed upon the defendant. Section 3 of the Terrorism Act 2006 explicitly includes encouragement communicated over the internet.

The UK provisions seem to require a lower threshold than the 2008 Framework Decision, in that they do not limit public provocation to cases where the perpetrator intended to provoke an offence, but also cover cases where he or she was merely reckless. They not only criminalise the act of encouraging another person or persons to commit or instigate acts of terrorism, they also criminalise the act of encouraging them to prepare such acts.

Public provocation may also be covered by Section 2 of the Terrorism Act 2006 on dissemination of terrorist publications. This provision criminalises the dissemination of terrorist publications, where this comprises the distribution, selling or lending of such publications, enabling others to obtain, read, listen to or look at such publications, transmitting such publications electronically or having such publications in one's possession with a view to making them available to others (Section 2(2)). This behaviour constitutes an offence either if committed with the intent to directly or indirectly encourage or induce the commission, preparation or instigation of acts of terrorism or the provision of assistance in the commission or preparation of such acts, or if committed recklessly (Section 2(1)). A terrorist publication is defined as either: a publication the content of which is likely to be understood, by some or all of the persons to whom it is or may become available, as a direct or indirect encouragement to commit, prepare or instigate acts of terrorism; or a publication the content of which would be useful in the commission or preparation of such acts and would be understood, by some or all of those persons, in the form in which it is presented in the publication, or made available to them, as being wholly or mainly for the purpose of being so useful to them (Section 2(3)). The law also clarifies what is meant by indirect encouragement, namely the glorification of the commission or preparation (whether in the past, in the future or generally) of a terrorist act or acts, where the addressee could reasonably be expected to infer that what is being glorified is being glorified as conduct that should be emulated by him or her

in existing circumstances (Section 2(4)). Section 2(7) and (8) refer to circumstances which are irrelevant, such as: whether encouragement relates to the commission, preparation or instigation of one or more particular acts of terrorism, of acts of terrorism of a particular description or of acts of terrorism generally; and whether or not the conduct in question did actually encourage or induce a person to commit, prepare or instigate acts of terrorism, and, in the case of the dissemination of terrorist publications, whether the person actually made use of the publication in the commission or preparation of acts of terrorism. Where a person is accused of reckless dissemination of terrorist publications, Section 2(9) provides for a specific defence. He or she must show that the publication in question neither expressed his views nor had his endorsement.

## **2. RECRUITMENT FOR TERRORISM AS DEFINED IN ARTICLE 3(1)(B) OF THE 2002 FRAMEWORK DECISION AS AMENDED BY THE 2008 FRAMEWORK DECISION**

Recruitment for terrorism is defined in Article 3(1)(b) as ‘*soliciting another person to commit one of the offences listed in Article 1(1)(a) to (h), or in Article 2(2)*’, i.e. to solicit another person to commit one of the terrorist offences or one of the offences related to the activities of a terrorist group (including directing or financing the group).

**Belgium:** Article 140ter of the Belgian Criminal Code, as amended in 2013, criminalises the act of recruiting a third person to commit a terrorist offence, defined as any of the offences listed in Article 137, except the threat to commit a terrorist act, or the offence of taking part in the activities of a terrorist group, as referred to in Article 140.

**Bulgaria:** Article 108a(3) of the Bulgarian Criminal Code criminalises any person who recruits individuals or groups of people for the purpose of committing a terrorist offence, as defined in Article 108a(1). Recruitment for participation in and financing of a terrorist group would appear not to be covered by this Article, as participation in and financing of a terrorist group are defined as offences in Article 109, which is however not mentioned in Article 108a(3) of the Bulgarian Criminal Code.

**The Czech Republic:** The Czech authorities take the view that Section 311(2) of the Czech Criminal Code could cover recruitment for terrorism. This provision criminalises any person who supports terrorists, terrorist groups or terrorist actions financially, materially or in any other way. Although the provision is formulated broadly, it is not entirely clear whether it could be interpreted in such a way as to criminalise the act of soliciting another person to commit terrorist offences or to support a terrorist group, in cases where no specific terrorist act had yet been defined. As an alternative, the Czech authorities consider that recruitment could be prosecuted under Section 311(1), applied in combination with general rules on preparation (Section 20) and participation (Section 24). The concept of preparation covers conspiratorial behaviour and other forms of aiding and abetting terrorist activities, irrespective of whether the terrorist act in question has been committed or attempted. It is not entirely clear, however, whether recruitment would be regarded as preparation and whether this behaviour would therefore constitute an offence if the terrorist act in question had not been

committed. A person involved in recruitment for terrorism could be considered (and prosecuted) as an 'organiser' under Section 24 of the Czech Criminal Code. An organiser's role in criminal activity is defined as including the identification of individuals who could potentially commit future terrorist offences. It is, however, doubtful whether this provision would apply in cases where the terrorist offence in question had not yet been committed or attempted.

**Denmark:** Denmark introduced new provisions on recruitment for terrorism in its 2006 anti-terror package. Section 114c(1) of the Danish Criminal Code criminalises any person who recruits another person to commit or facilitate any of the terrorist offences specified in Sections 114 and 114a or to join a group or association in order to facilitate that the group or association to commit acts of this nature. Section 114c(2) criminalises any person who recruits another person to commit or facilitate any of the offences specified in Section 114b (offences involving financing of terrorism but not linked to specific terrorist offences) or to join a group or association in order to facilitate the group or association to commit acts of this nature.

Section 114c(3) of the Criminal Code also criminalises the act of allowing oneself to be recruited.

**Germany:** Recruitment for terrorism is covered by two different provisions: the general provision on conspiracy (Section 30(1) of the German Criminal Code) and the provision on the recruitment of members or supporters to a terrorist organisation (Section 129(a)(5) of the German Criminal Code).

Section 30(1) sets out provisions on attempted felonies, criminalising any person who attempts to induce another person to commit a felony or to abet another person in committing a felony. To the extent that terrorist offences to be committed do not qualify as a felonies (this is the case for sabotage offences laid down in Sections 316b and 317 of the Criminal Code which do not foresee a minimum sanction of one year imprisonment), recruitment is however not punishable.

Section 129a(5) criminalises any person who recruits members or supporters for a group of the type described in subsections (1) and (2).

**Estonia:** Section 237/2(1) of the Estonian Criminal Code criminalises the recruitment of another person for the commission of a criminal offence as defined in Section 237. This means that recruitment for the commission of terrorist offences is covered, but that recruitment to provide support to a terrorist organisation would seem not to be, as providing support to a terrorist organisation is defined as an offence under Section 237/1 rather than Section 237.

**Ireland:** Section 6B(1) of the proposed Criminal Justice (Terrorist Offences) (Amendment) Bill 2012 criminalises any person who, from within or outside of Ireland, recruits or attempts to recruit another person for the purposes of engaging in terrorist activity or terrorist-linked

activity. The reference to terrorist activity and terrorist-linked activity are defined in Schedule 2 to the Criminal Justice (Terrorist Offences) Act 2005 and do not appear to include supporting or financing a terrorist group. It is not therefore clear whether the proposed provision covers recruitment to a terrorist group and recruitment to financially support a terrorist group.

**Greece:** n.a.

**Spain:** Section 576(3) of the Criminal Code as amended in 2010 criminalises any person who carries out any activity to recruit, indoctrinate, train or induct others with the aim of them joining a terrorist organisation or group, or committing any of the offences specified in the chapter on terrorist organisations and terrorist offences (Articles 571 to 580). Referring to all the offences in this chapter ensures that Section 576(3) covers recruitment to commit terrorist offences and recruitment to join a terrorist group or support such a group, e.g. by providing funding.

**France:** Recruitment of terrorists could be covered as a form of participation in a terrorist group or as part of an understanding established with a view to carrying out terrorist offences (as defined in the preceding provisions, Articles 421-1 and 421-2) under the existing offence of conspiracy (“*association des malfaiteurs*”) criminalised, in the specific case of terrorist offences, under Article 421-2-1. The French authorities are understood to take the view that recruiting a person to become part of a terrorist group or party to an ‘understanding’ can be regarded as participation, in the sense that it is used in this provision. Recruiting a person to commit a terrorist offence would not, however, appear to be covered by this provision if no established group or ‘understanding’ is involved.

In 2012, France introduced Article 421-2-4 into its Criminal Code. This provision makes it an offence to offer or promise gifts, presents or any other benefit, to threaten or to pressure a person to participate in any offence specified in Article 421-2-1 or to commit any terrorist act specified in Articles 421-1 and 421-2. It criminalises recruitment for terrorism (where this includes both participation in a group and commission of terrorist activities) even when recruitment does not in fact lead to a terrorist offence being committed. Although the actions described in this provision are all possible ways and means to recruit a person, this list of actions could also be considered to unduly limit the scope of the provision, as there could be other ways of soliciting a person to commit a terrorist act or join a terrorist group not included here. The fact that the provision refers only to Articles 421-1 and 421-2, but not to Articles 421-2-1 (conspiracy) or 421-2-2 (financing of terrorist groups), would appear to imply that it only covers recruitment to commit terrorist offences and not recruitment to a terrorist group.

**Croatia:** The Croatian Criminal Code, as amended in 2008 and again in 2013, includes new provisions on public instigation to terrorism and recruitment and training for terrorism. Recruitment for terrorism is criminalised under Article 100 of the Criminal Code and covers both, soliciting another person to commit or participate in the commission of an act of

terrorism as defined in Article 97, and soliciting another person to join a terrorist group with the intent of contributing to the commission of terrorist offences as defined in Article 102.

**Italy:** Article 270quater, introduced into the Italian Criminal Code in 2005, criminalises the conduct of any person who except for the cases set forth in Article 270bis (governing the offence of participating in the activities of a terrorist group), recruits one or more individuals to commit acts of violence or sabotage of essential public services, for the purpose of terrorism, even if directed against a foreign State. Unlike in the case of conspiracy, recruitment of potential terrorists is considered an offence irrespective of whether there is proof of a specific associative agreement. The fact that this provision refers only to acts of violence or sabotage of essential public services makes it doubtful whether this provision covers recruitment for the commission of all of the terrorist acts listed in Articles 1(1)(a) to (h) and the offences related to a terrorist group as defined in Article 2(2) of the 2002 Framework Decision.

**Cyprus:** Recruitment could be covered by Article 13 of the 2010 Act on combating terrorism. This provision makes it an offence to publish or cause to be published a statement which directly or indirectly encourages another person to commit a terrorist act, irrespective of whether or not that person consents to commit such an act.

**Latvia:** Section 88/3 of the Latvian Criminal Code criminalises any person who recruits others to commit acts of terrorism.

**Lithuania:** Article 250-2 of the Lithuanian Criminal Code, as amended in 2013, criminalises the act of recruiting another person for the purpose of committing a terrorist offence, taking part in a terrorist offence or taking part in the activities of a group whose objective is to carry out terrorist offences.

**Luxemburg:** The law of 26 December 2012 on the prevention of terrorism introduced a new section on crimes linked to terrorist activities into Luxembourg Criminal Law. Article 135-12 defines recruitment for terrorism as one or more persons soliciting or attempting to solicit another person to commit a terrorist act, or to create or join a terrorist group. Article 135-14 clarifies that penalties will be applied even if the terrorist act in question has not been committed.

**Hungary:** Recruitment for terrorism could be prosecuted under Article 315(1) of the Hungarian Criminal Code as instigation to commit one of the offences listed in Articles 314(1) and (2). If a person is recruiting others with a view to their committing offences within a terrorist group, Article 315(2) may apply.

**Malta:** Article 328C(2)(b) of the Maltese Criminal Code criminalises any person who knowingly recruits or solicits another person to commit an act of terrorism (as defined in Article 328A).

**The Netherlands:** Recruitment to terrorism, defined as soliciting a person to commit a terrorist offence, (as defined in Article 83) could be prosecuted under Articles 131 and 132 (see first section on public provocation for descriptions of both provisions). Where Article 83 refers to a ‘terrorist offence’, this includes involvement in a terrorist group (as described in Article 140a). Article 205 of the Dutch Criminal Code criminalises recruitment for foreign military service or for armed warfare. If the armed warfare for which a person is recruited would involve them in committing terrorist offences, the penalties imposed are more severe (see Article 205(3)).

**Austria:** Austria has not introduced specific provisions on recruitment for terrorism. The Austrian authorities are of the opinion that recruitment, as defined in Article 3(1)(b) of the 2008 Framework Decision, can be prosecuted either as participation in or incitement to commit a terrorist offence (Section 278c(1) of the Austrian Criminal Code in combination with Section 12) or as involvement in the activities of a terrorist group (Section 278b(2)). The combined application of Section 278c(1) and Section 12 may be too limited in scope to fully meet the requirements of Article 3(1)(b) of the 2008 Framework Decision, as criminalising participation in a terrorist offence presupposes that the offence in question has actually been committed. Section 278b(2) of the Austrian Criminal Code makes it a criminal offence to be a member of a terrorist group. This includes participating in or committing a criminal offence as part of a terrorist group, providing information or resources, or being involved in any other way in the activities of the group in the knowledge that this will facilitate the terrorist activities of the group and/or benefit the group itself. The other types of involvement in the activities of the group referred to could include, for example, recruiting members. This provision only applies to recruitment of members to a group, and does not appear to cover recruitment of an individual for terrorism in cases where there is no link to an established terrorist group.

**Poland:** Recruitment to terrorism — understood to mean the act of soliciting a person to commit a terrorist offence or to contribute to the activities of a terrorist group — could be covered by Articles 255 and/or 255a of the Polish Criminal Code (see first section on public provocation for details of both provisions). The Polish authorities also appear to consider the general provision on aiding and abetting (Article 18(3) of the Criminal Code) to be potentially applicable. This provision criminalises any person who, through his or her conduct, intentionally facilitates the perpetration of an offence by another person, in particular by providing materials, means of transport, advice or information. It is, however, doubtful whether this provision in combination with the specific provisions on terrorist offences would together ensure that recruitment for terrorism, as defined in the 2008 Framework Decision, is criminalised in cases where the terrorist offence in question has not yet been committed or attempted.

**Portugal:** Article 4(4) of the law on counterterrorism criminalises the recruitment of another person for the purpose of committing terrorist offences. It is argued that the use of the word ‘recruit’ instead of ‘solicit’ restricts the scope of this provision, as it presupposes the existence of some sort of prior plan or organisational framework, in which the person being recruited

would then play a role. Simply asking or suggesting to another person that they carry out an act constituting a terrorist offence may not be sufficient for this provision to apply. Article 4(4) only refers to acts mentioned in Article 2(1), which would seem to imply that recruiting somebody to take part in the activities of a terrorist group (including by providing funding) is not covered.

**Romania:** Act 187/2012 amending Law 535/2004 on preventing and combating terrorism, which entered into force on 1 February 2014, introduced a new provision criminalising recruitment to terrorism. Article 33<sup>1</sup> criminalises any person who recruits another person to commit any of the crimes specified in Articles 32(1) and (3) and Article 33 (terrorist offences and acts assimilated to terrorist offences). No reference is made, however, to offences carried out as part of a terrorist group or entity, which could imply that recruitment to take part in such activities (including by providing funds) would not necessarily be covered by this new provision.

**Slovenia:** Article 111(1) of the Slovenian Criminal Code criminalises the "conscription" (recruitment) for terrorist activities where this involves encouraging another person to commit or participate in any of the criminal offences specified under Article 108 of the Criminal Code or to join a terrorist organisation or group with the aim of committing terrorist acts.

**Slovakia:** Article 419(2)(d) of the Slovakian Criminal Code criminalises any person who requests that another person commit or take part in the commission of terrorist offences as defined in Article 419(1). The fact that this provision refers only to terrorist offences defined in Article 419(1) and not to the legal provisions transposing Article 2(2) of the 2002 Framework Decision (Sections 89(26) to (28) and 185a(2) of the Criminal Code) could imply that recruitment to take part in the activities of a terrorist group (including recruitment to provide funding) is not covered by this provision.

**Finland:** Chapter 34a Section 4b of the Finnish Criminal Code criminalises any person who recruits another person to a terrorist group or to commit terrorist offences in any other way, in order to promote terrorist offences or in the knowledge that his or her actions will promote terrorist offences (as defined in Section 1 or 2). This provision appears to cover not only cases where the person intends to promote terrorism (or objectively foresees this as the outcome of their actions) but also cases where the person is aware of the likely outcome, i.e. direct intent is not required. Furthermore, the provision refers to both Section 1 (terrorist offences) and Section 2 (preparation of an offence to be committed with terrorist intent), and therefore also covers recruitment of another person to take part in the planning of a terrorist offence, or, for example, to transport weapons or to acquire formulae or instructions for making explosives (see the examples given in Section 2 of the Criminal Code).

**Sweden:** Section 4 of the Act on criminal liability for public provocation, recruitment and training criminalises any person who seeks to induce another person, in a case other than that specified in Section 3 (which defines public provocation), to commit or otherwise take part in a particularly serious crime. A 'particularly serious crime' is defined in Section 2 of the same

Act. Subsection 2 of this section specifies terrorist offences — as defined under Section 2 of the Act on criminal responsibility for terrorist offences (2003:148) — gross sabotage, hijacking, maritime or air traffic sabotage and airport sabotage as particularly serious crimes. No reference is made, however, to the other provisions transposing Article 2(2) of the 2002 Framework Decision (contained in Sections 3 and 4 of Act 2003:148).

**The United Kingdom:** Recruitment for terrorism is not explicitly specified as a criminal offence in the United Kingdom. Recruiting a person for terrorism could, however, potentially fall under several provisions, depending on the circumstances. Recruitment could be covered by Section 5 of the Terrorism Act 2006, which criminalises any person who engages in any conduct in preparation for committing or assisting another person to commit acts of terrorism. Furthermore, under the general law of all parts of the United Kingdom, it is a criminal offence to incite a person to commit any criminal offence. Recruiting a person to commit any specific act of terrorism could constitute the offence of inciting the person to commit that criminal offence. Recruiting a person to join a terrorist organisation without any particular act of terrorism immediately in mind would, if the terrorist organisation is officially proscribed, constitute the criminal offence of inciting that person to commit the offence of belonging to a terrorist organisation (an offence under Section 11 of the Terrorism Act 2000).

### **3. TRAINING FOR TERRORISM AS DEFINED IN ARTICLE 3(1)(C) OF THE 2002 FRAMEWORK DECISION AS AMENDED BY THE 2008 FRAMEWORK DECISION**

Training for terrorism is defined in Article 3(1)(c) as *‘providing instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing one of the offences listed in Article 1(1)(a) to (h), knowing that the skills provided are intended to be used for this purpose.’*

**Belgium:** Article 140quater of the Belgian Criminal Code was introduced in 2013 and criminalises any person who provides or receives instruction or training for the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing a terrorist offences, as defined by the Criminal Code.

**Bulgaria:** Article 108a(3) of the Bulgarian Criminal Code criminalises any person who trains individuals or groups of persons for the purpose of committing a terrorist offence.

**The Czech Republic:** The Czech authorities are of the opinion that Section 311(2) of the Czech Criminal Code could cover training for terrorism. This provision criminalises any person who supports terrorists, terrorist groups or terrorist actions financially, materially or in any other way. Although the provision is formulated broadly, it is not clear whether it could be interpreted in such a way as to cover the act of providing instructions for the purpose of committing terrorist offences if no specific terrorist act had been defined at that stage. As an alternative, training could be covered, according to the Czech authorities, by Section 311(4) applied in combination with general rules on preparation (Section 20) or participation



(Section 24). The concept of preparation encompasses conduct engaged in before an attempt is made to carry out a terrorist offence, and this provision may therefore cover training for the purpose of terrorism (see previous comments on this above).

**Denmark:** Section 114d of the Danish Criminal Code criminalises any person who trains, instructs or in any other way teaches another person to commit, facilitate or assist in carrying out terrorist acts in the knowledge that the person intends to use the skills to pursue such an aim. This provision distinguishes between two types of training, on the basis of its ultimate purpose — training to be used for carrying out terrorist offences as defined in Section 114 (acts of terrorism) and 114a (terrorist-like acts), and training to be used for carrying out one of the offences specified in Section 114b (financing of terrorism). This distinction is reflected in the different range of penalties that can be imposed (under Sections 114d(1) and (2), respectively). Although the provision itself does not refer to the specific skills listed in Article 3(1)(c), the explanatory notes to the law amending the Danish Criminal Code clarify that this provision applies to instructions in, e.g. the use of weapons or making bombs, irrespective of whether the person instructed actually carries out a terrorist act.

Section 114d(3) also makes it a criminal offence to allow oneself to be trained to commit or facilitate terrorist acts and terrorist-like acts.

**Germany:** Section 89a(1) of the German Criminal Code criminalises any person who prepares a serious offence endangering the State. Subsection 2 lists the preparatory acts that are covered by this provision. These include instructing another person or receiving instruction in: 1. the production or use of firearms, explosives, explosive or incendiary devices, nuclear fission material or other radioactive substances, substances that contain or can generate poison or other substances detrimental to health; 2. the construction of special facilities needed for the commission of the offence; or 3. other skills that could be of use for the commission of any of the offences specified in subsection 1. The reference to serious offences endangering the State does not cover all of the terrorist offences listed in Article 1 of the 2002 Framework Decision.

**Estonia:** Section 237/2(1) of the Estonian Criminal Code criminalises the organisation of training for the commission of a terrorist offence, as defined in Section 237.

**Ireland:** Section 6C(1) of the Criminal Justice (Terrorist Offences) (Amendment) Bill 2012 criminalises the act of giving or receiving instruction or training in the making or use of firearms or explosives, biological weapons, chemical weapons, nuclear weapons or any other such weapons as may be used in the commission of any of the offences specified in Section 6(1), or in any other techniques or methods intended to be used in the commission of any of these offences. Section 6C(5) provides for the defence that the giving or receiving of such instruction or training was done with lawful authority or that there was a reasonable justification for giving or receiving such instruction or training. A person charged with an offence under this section must prove that this was the case.

**Greece:** n.a.

**Spain:** Section 576(3) of the Spanish Criminal Code as amended in 2010 criminalises any person who carries out any activity to recruit, indoctrinate, train or induct another person, with the aim of their joining a terrorist organisation or group or committing any of the offences specified in the chapter on terrorist groups and terrorist offences (Articles 571 to 580).

**France:** Training for terrorism could be covered by the offence of conspiracy ("*association de malfaiteurs*") for terrorist purposes established by Article 421-2-1 of the French Criminal Code.

**Croatia:** Following amendments to the Croatian Criminal Code in 2008 and 2013, training for terrorism is defined in Article 101 as providing guidance on the making or use of explosive devices, firearms or other weapons or harmful or dangerous substances, or in other specific methods and techniques, knowing that these skills are intended for use in the commission of the criminal acts specified in Articles 97, 98, 102, 137, 216 (paragraphs 1 to 3), 219, 223, 224 and 352 to 355 of the Criminal Code (in particular Article 97 defining acts of terrorism and Article 102 defining the offence of joining or taking part in a terrorist group).

**Italy:** Article 270quinquies of the Italian Criminal Code, introduced in 2005, makes it an offence to train another person for the purpose of terrorism. It criminalises any person who except for the cases mentioned under Article 270bis, trains or otherwise gives instructions on how to prepare or use explosive materials, firearms or other weapons or harmful or hazardous chemical or bacteriological substances or in any other techniques or methods, for the purpose of committing, with terrorist intent, acts of violence or acts of sabotage affecting essential public services, including where this is directed against a foreign State or an international institution or organisation. This provision provides for the same penalty to be imposed for those receiving training or instructions. Unlike the offence of conspiracy, this new provision does not require proof of a specific associative agreement. It was designed with the aim of overcoming a potential gap in the legal framework, as the offence of conspiracy could only be applied in cases where there is an organisational structure and a minimum of three people. The concept of training has apparently been applied and interpreted not as simply meaning providing and receiving information, but as requiring a more continuous and systematic training programme involving some form of follow up. For the training programme to be considered as such, it is nevertheless sufficient that it be capable of facilitating terrorist activities. Only limited reference is made to acts of violence or sabotage of essential public services for the purpose of terrorism, and it is therefore doubtful whether training for committing all of the terrorist offences listed in Articles 1(1)(a) to (h) of the 2002 Framework Decision is actually covered.

**Cyprus:** Giving training for the purpose of terrorism is an offence under Articles 8(1) and (2) of the 2010 Act on combating terrorism. These provisions criminalise any person who supports a terrorist organisation or member of a terrorist organisation by providing guidance for the production or use of explosives, firearms or other weapons or noxious or hazardous substances, or in any other specific methods or techniques, with the intention of performing or contributing to terrorist crimes, knowing that a person or organisation intends to use the guidance in this way.

**Latvia:** Section 88/3 of the Latvian Criminal Code criminalises any person who trains another person to commit acts of terrorism.

**Lithuania:** Article 250-5 of the Lithuanian Criminal Code, as amended in 2013, criminalises any person who provides special knowledge or skills necessary for committing or taking part in the commission of a terrorist offence, knowing that the person acquiring the knowledge or skills intends to use them for terrorist aims.

**Luxemburg:** Training for terrorism is defined in Article 135-13 of the Luxemburg Criminal Code as providing instruction or attempting to provide instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing one of the offences specified in this chapter, knowing that the skills provided are intended to be used for this purpose. Article 135-14 clarifies that penalties will be applied even if the terrorist act in question has not been committed.

**Hungary:** Training for terrorism could be prosecuted under Article 315(1) of the Hungarian Criminal Code, as amended in 2013, as aiding and abetting terrorist offences (as defined in Articles 314(1) and (2)) by providing any of the means intended to be used in such activities. Alternatively, it could be prosecuted under Article 318(2) as support for the activities of a terrorist group.

**Malta:** Article 328C(2)(c) of the Maltese Criminal Code criminalises any person who knowingly trains or instructs another person in making explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing an act of terrorism (as defined in Article 328A).

**The Netherlands:** Article 134a was introduced into the Dutch Criminal Code in 2009 and criminalises any person who: 1. purposefully provides or tries to provide him/herself or somebody else with the opportunity, means or information to commit a terrorist crime or a crime with the objective of preparing or facilitating a terrorist crime; or 2. acquires the knowledge and the skills to commit such a crime; or 3. teaches somebody else such knowledge and skills.

**Austria:** The amendments made to the Criminal Code in 2010 and 2011 introduced two new offences: training for terrorist purposes and instruction in committing terrorist offences. Whereas the provision on training for terrorist purposes (Section 278e) relates to a typical training situation involving a trainer and a trainee, the provision on instruction in committing terrorist offences (Section 278f) covers situations where information is provided for a person to use to teach themselves. This distinction is reflected in the range of penalties which can be imposed, these being less severe where instruction rather than training is provided (see the table below). Section 278e criminalises any person who trains another person in how to make or use explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing a terrorist offence, knowing that the skills provided are intended to be used for this purpose. Section 278f criminalises any

person who provides materials that are, in view of their content, intended to offer instruction for committing a terrorist offence, provides such information on the internet or makes it accessible to another person, with the intention of inciting the commission of a terrorist act. Receiving training or procuring information or instructions from the internet is an offence under both the above provisions.

**Poland:** Training for terrorism could be covered by Article 255a of the Polish Criminal Code. This article criminalises the provision or dissemination of information that may facilitate a terrorist offence, with the intention that such an offence be committed. This includes e.g. providing instructions in different techniques and methods, as specified in Article 3(1)(c) of the 2002 Framework Decision as amended by the 2008 Framework Decision. The Polish authorities are also understood to consider that training for terrorism could be covered by the general provision on aiding and abetting contained in Article 18(3) of the Criminal Code (see the section above on recruitment for terrorism for more details). As mentioned above, it is doubtful whether the application of this provision in combination with the specific provisions on terrorist offences would ensure that training, as defined in the 2008 Framework Decision, is criminalised in cases where the terrorist offence in question has not yet been committed or attempted, or where no specific terrorist act has been specified.

**Portugal:** Article 4(5) of the Portuguese law on counterterrorism criminalises any person who trains or instructs another person by any means in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of committing any of the acts set out in Article 2(1) with terrorist intent.

**Romania:** Article 33(1)(b) of Law 535/2004 as amended by Law 187/2012 that entered into force in February 2014 criminalises the instruction or training of another person in the use of firearms, ammunition, explosives or explosive devices of any type, or chemical, biological, bacteriological or nuclear weapons, including any equipment specifically designed to be used in direct connection with chemical, biological, bacteriological or nuclear substances, where these actions are undertaken for the purpose of terrorism, as defined in Article 32(1). Article 33(2)(e) criminalises participation in training and preparation for the use of e.g. destructive means, toxic or dangerous substances, firearms or explosive devices in order to commit terrorist acts.

**Slovenia:** Article 111(2) of the Slovenian Criminal Code criminalises any person who trains others for any of the criminal offences specified in Article 108 of the Criminal Code, by providing instructions to manufacture and use explosives, firearms or other weapons or harmful or hazardous substances or by training them in other specialist methods or technology, for the purpose of committing or participating in a terrorist act.

**Slovakia:** Training for the purpose of terrorism is criminalised under Section 419(2)(b) of the Slovakian Criminal Code. This offence is defined as providing expertise on the methods or techniques for manufacturing and using explosives, nuclear, biological or chemical weapons or other similarly harmful or dangerous substances, for the purpose of committing a terrorist offence as defined in Article 419(1).

**Finland:** Chapter 34a Section 4a of the Finnish Criminal Code criminalises any person who arranges, attempts to arrange or provides training in the preparation or use of explosives, firearms or other arms, or poisonous or other noxious substances, or arranges, attempts to arrange or otherwise provides training with the intention or in the knowledge of promoting the criminal activity referred to in Sections 1 and 2. As mentioned above (in the section on recruitment for terrorism), this provision appears to require only that the person be aware of the potential consequences of their action and not that they necessarily intend to objectively pursue these outcomes, i.e. it sets a lower threshold for what constitutes an offence. Furthermore, as also highlighted above, the provision refers to both Sections 1 and 2, implying that it covers both training for committing terrorist offences and also training relating to preparatory offences.

**Sweden:** Section 5 of the Act on criminal responsibility for public provocation, recruitment and training criminalises any person who provides or seeks to provide instruction in the making or use of explosives, weapons or noxious or hazardous substances that are particularly likely to be used in a particularly serious crime, or in other methods or techniques intended for such a purpose, if the act has been committed with the knowledge that the instruction is intended to be used for a particularly serious crime.

**The United Kingdom:** Section 6 of the Terrorism Act 2006 criminalises training for terrorism. Section 6(1) defines this as providing instruction or training in any of the skills mentioned in Section 6(3), in the knowledge that the person receiving the instruction or training intends to use the skills for or in connection with the commission or preparation of acts of terrorism or for assisting the commission or preparation by others of such acts.

Section 6(2) criminalises any person who receives instruction or training if he or she intends to use the skills in which he or she is being instructed or trained for or in connection with the commission or preparation of acts of terrorism or for assisting the commission or preparation by others of such acts or offences.

Section 6(3) lists the skills to which Sections 6(1) and (2) refer, i.e. skills in which it is an offence to provide training or instruction. These are: the making, handling or use of a noxious substance, or of substances of a description of such substances; the use of any method or technique for doing anything that is capable of being done for the purposes of terrorism, in connection with the commission or preparation of an act of terrorism or in connection with assisting the commission or preparation by another of such an act or offence; and the design or adaptation for the purposes of terrorism, or in connection with the commission or preparation of an act of terrorism, of any method or technique for doing anything.

Section 6(4) clarifies that these provisions apply irrespective of whether the instruction or training is provided to one or more particular persons or generally and whether the acts or offences in relation to which a person intends to use the skills in which he or she is being instructed or trained consist of one or more particular acts of terrorism, acts of terrorism of a particular description or acts of terrorism generally.

Training for terrorism could also be prosecuted under Section 54 of the Terrorism Act 2000. This provision criminalises any person who gives instruction or training in the making or use of firearms, explosives, or chemical, biological or nuclear weapons, receives instruction or training in these skills, or invites others to receive such instruction or training. The provision of instruction is understood to mean making instruction available either generally or to one or more specific persons. The invitation to receive instructions or training may be either general or addressed to one or more specific persons. Section 54(5) provides for a specific defence for a person charged with an offence under this section in relation to instruction or training. He or she must prove that his or her action or involvement was wholly for a purpose other than assisting, preparing for or participating in terrorism.

Training for terrorism may also be covered by Section 8 of the Terrorism Act 2006 on attendance at a place used for terrorist training. This provision criminalises attendance at any place, in the United Kingdom or elsewhere, where instruction or training of the type mentioned in Section 6(1) of the same Act or in Section 54(1) of the Terrorism Act 2000 (weapons training) is provided, wholly or partly for purposes connected with the commission or preparation of acts of terrorism. A person attending such a training camp is guilty of this offence if he or she knows or believes that instruction or training is being provided there wholly or partly for purposes connected with the commission or preparation of acts of terrorism or could not reasonably have failed to understand that this was the case.

Section 8(3) clarifies that the provisions in Section 8 apply irrespective of whether the person concerned receives the instruction or training him or herself and whether the instruction or training is provided for purposes connected with one or more particular acts of terrorism, acts of terrorism of a particular description, or acts of terrorism generally.

**TABLE 1: OVERVIEW OF THE LEGAL ACTS ADOPTED IN MEMBER STATES TO TRANSPOSE  
THE NEW OFFENCES AS DEFINED IN THE 2008 FRAMEWORK DECISION**

Member State	Legislation predating the adoption of the 2008 Framework Decision	Legislation adopted subsequent to the adoption of the 2008 Framework Decision
<b>BE</b> (Belgique/België, Belgium)		Law of February <b>2013</b> introducing the three new offences under Articles 140 bis, ter and quater of the <b>Criminal Code</b>
<b>BG</b> (България, Bulgaria)		Law of <b>2011</b> amending the <b>Criminal Code</b> , introducing three new offences under Articles 320 and 108a of the Criminal Code
<b>CZ</b> (Česká republika, Czech Republic)		Amendment to the <b>Criminal Code</b> in <b>2011</b> to include public provocation (under Article 311(2))  The <b>Criminal Code</b> as amended in <b>2009</b> can also be applied so as to cover the new offences of recruitment and training
<b>DK</b> (Danmark, Denmark)	Article 136(1) of the <b>Criminal Code</b> (public provocation) is an existing provision pre-dating Denmark's accession to the EU.  Adoption of the <b>second anti-terror package in 2006</b> , introducing offences of recruitment and training (Articles 114c and 114d of the <b>Criminal Code</b> )	
<b>DE</b> (Deutschland, Germany)	Existing provisions cover recruitment insofar as recruitment to terrorism can be considered to constitute either conspiracy in relation to terrorist offences (Section 30 of the <b>Criminal Code</b> ) or participation in a terrorist group (Section 129a of the Criminal Code)	<b>Act criminalising the preparation of serious violent offences endangering the State (2009)</b> , introducing the new offences under Article 91 of the <b>Criminal Code</b>

Member State	Legislation predating the adoption of the 2008 Framework Decision	Legislation adopted subsequent to the adoption of the 2008 Framework Decision
<b>EE (Eesti, Estonia)</b>	<b>Criminal Code</b> as amended in <b>2007</b> establishing three new offences under Article 237/2.	
<b>IE (Éire/Ireland, Ireland)</b>		<b>Criminal Justice (Terrorist Offences) (Amendment) Bill 2012</b> introducing three new offences in Sections 6A, B and C (not yet adopted)
<b>EL (Ελλάδα, Greece)</b>		n.a.
<b>ES (España, Spain)</b>		<b>Law 5/2010</b> amending the <b>Criminal Code</b> introducing the three new offences under Articles 576, 578 and 579
<b>FR (France, France)</b>	<p><b>1881 Act on the freedom of the press</b> (Articles 23 and 24) covering public provocation (amended in 2004 to explicitly include dissemination of information over the internet)</p> <p><b>Law of 2006 on combating terrorism</b> extending the offence of conspiracy (Article 421-2-1) to cover terrorist activities (including recruitment and training for terrorism)</p>	<b>Law of 2012 on security and combating terrorism</b> introducing the offences of recruitment and training for terrorism (Article 421-2-4)
<b>HR (Hrvatska, Croatia)</b>	The 2008 amendments to the <b>Criminal Code</b> (further amended in 2013) introducing new offences	
<b>IT (Italia, Italy)</b>	<b>Law 155/2005</b> introducing the new offences of recruitment and training for terrorism (Articles 270 quater and quinquies of the <b>Criminal Code</b> ); an aggravating circumstance was also added to the provision on incitement to commit	



Member State	Legislation predating the adoption of the 2008 Framework Decision	Legislation adopted subsequent to the adoption of the 2008 Framework Decision
	an offence (Article 320 of the Criminal Code), the circumstance being that the incitement relates to a terrorist offence	
<b>CY (Κύπρος, Cyprus)</b>		<b>2010 Law on combating terrorism</b> introducing the three new offences under Articles 8, 12 and 13
<b>LV (Latvija, Latvia)</b>	<b>2007 Law on national security</b> introducing the three new offences in Sections 88/2 (public provocation) and 88/3 (recruitment and training for terrorism) of the <b>Criminal Code</b>	
<b>LT (Lietuva, Lithuania)</b>		Amendment to the <b>Criminal Code</b> in <b>2013</b> introducing the three new offences under Articles 250-1, 250-2 and 250-5
<b>LU (Luxembourg, Luxembourg)</b>		Introduction of the three new offences under Articles 135-11, 135-12 and 135-13 of the <b>Criminal Code</b> in <b>2012</b>
<b>HU (Magyarország, Hungary)</b>		<b>2013</b> amendment to the <b>Criminal Code</b> introducing the three new offences under Article 315
<b>MT (Malta, Malta)</b>	<b>2005</b> amendment to the <b>Criminal Code</b> introducing the three new offences under Articles 328C(2)(a), (b) and (c)	
<b>NL (Nederland, Netherlands)</b>		<b>2009</b> amendment to the <b>Criminal Code</b> introducing the new offences of training (under Article 134a) and preparatory acts relating to terrorism — public provocation and recruitment (under Articles 83b, 131 and 132)
<b>AT (Österreich, Austria)</b>	Act 134 of <b>2002</b> introducing Sections 278b and 278c on	Amendment to the <b>Criminal Code</b> in <b>2010</b> introducing Section 278e

Member State	Legislation predating the adoption of the 2008 Framework Decision	Legislation adopted subsequent to the adoption of the 2008 Framework Decision
	recruitment for terrorism into the <b>Criminal Code</b>	(training) and in <b>2011</b> introducing Sections 278f (instruction) and 282a (provocation)
<b>PL</b> (Polska, Poland)		<b>2011</b> amendment to the <b>Criminal Code</b> introducing Article 255a establishing the three new offences
<b>PT</b> (Portugal, Portugal)		<b>Law 17/2011</b> amending the <b>law on counterterrorism</b> and introducing the three new offences (under Articles 4(3), (4) and (5) of the Law on counterterrorism)
<b>RO</b> (România, Romania)		<b>Law 187/2012</b> introducing the three new offences (under Articles 33 <sup>^</sup> 2 (4), 33 <sup>^</sup> 1, 33(1)(b), and 33(2)(2))
<b>SI</b> (Slovenija, Slovenia)		<b>2008</b> amendment to the <b>Criminal Code</b> introducing the three new offences (under Articles 110, 111(1) and (2))
<b>SK</b> (Slovensko, Slovakia)	<b>2005 Criminal Code</b> , as amended by Act 576/2010, included the three new offences under Article 419(2)	
<b>FI</b> (Suomi/Finland, Finland)	<b>Act 1370/2007</b> amending the <b>Criminal Code</b> introducing the three new offences in Chapter 34a Sections 1, 4a and 4b	
<b>SE</b> (Sverige, Sweden)		<b>Act 2010:299</b> on criminal responsibility for public provocation, recruitment and training for terrorist offences and other particularly serious crimes introducing the three new offences in its Sections 3, 4 and 5
<b>UK</b> (United Kingdom)	<b>Terrorism Act 2006</b> establishing the three offences in Sections 1, 5 and 6; <b>Terrorism Act 2000</b> (specifically in relation to weapons	

Member State	Legislation predating the adoption of the 2008 Framework Decision	Legislation adopted subsequent to the adoption of the 2008 Framework Decision
	training, Section 54)	

**TABLE 2: PENALTIES FOR THE NEW OFFENCES OF PUBLIC PROVOCATION, RECRUITMENT AND TRAINING FOR TERRORISM**

The following table gives an overview of penalties that can be imposed on natural persons for the three new offences. Given that penalties may be based on different legal provisions, depending on the circumstances of the case, the table refers, where appropriate, to the different provisions and the resulting variation in the range of penalties that can be imposed.

Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
<b>BE</b> (Belgique/België, Belgium)	Article 140 bis of the Belgian Criminal Code: <b>5 to 10 years</b> (and a fine from EUR 5 500 to 1 100 000)	Article 140 ter of the Belgian Criminal Code: <b>5 to 10 years</b> (and a fine from EUR 5 500 to 1 100 000)	Article 140 quater of the Belgian Criminal Code: <b>5 to 10 years</b> (and a fine from EUR 5 500 to 1 100 000)
<b>BG</b> (България, Bulgaria)	If prosecuted as openly abetting the perpetration of a terrorist offence under <b>Section 320(2) of the Bulgarian Criminal Code: 2 to 10 years</b>	<b>Article 108a(3) of the Bulgarian Criminal Code: 2 to 10 years</b>	<b>Article 108a(3) of the Bulgarian Criminal Code: 2 to 10 years</b>
<b>CZ</b> (Česká republika, Czech Republic)	<b>Article 311(2) of the Czech Criminal Code</b> (support for terrorist activities): <b>5 to 15 years</b>	If prosecuted under <b>Article 311(2) of the Czech Criminal Code</b> (support for terrorist activities): <b>5 to 15 years</b>  If prosecuted under <b>Article 311(4) in combination with Article 20 of the Czech Criminal Code</b> (preparation of terrorist offences): <b>5 to 15 years</b>	If prosecuted under <b>Article 311(2) of the Czech Criminal Code</b> (support for terrorist activities): <b>5 to 15 years</b>  If prosecuted under <b>Article 311(4) in combination with Article 20 of the Czech Criminal Code</b> (preparation of terrorist offences): <b>5 to 15 years</b>
<b>DK</b> (Danmark, Denmark)	If prosecuted under <b>Article 136(1) of the Danish Criminal Code: maximum 4 years</b> or a fine	If prosecuted under <b>Article 114c(1) of the Danish Criminal Code</b> (recruitment for the commission	If prosecuted under <b>Article 114d(1) of the Danish Criminal Code</b> (training for the commission or

Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
	<p>If prosecuted as apology for criminal acts under <b>Article 136(2) of the Danish Criminal Code</b>: <b>maximum 2 years</b></p>	<p>or facilitation of a terrorist offence, to join a terrorist group or facilitate the activities of the group): <b>maximum 10 years</b><sup>1</sup></p> <p>If prosecuted under <b>Article 114c(2) of the Danish Criminal Code</b> (recruitment for financing of terrorism or recruitment to a group in order to help the group to commit offences involving financing of terrorism): <b>maximum 6 years</b></p> <p>If prosecuted under <b>Article 114c(3) of the Danish Criminal Code</b> ('passive recruitment'): <b>maximum 6 years</b></p>	<p>facilitation of a terrorist offence, to join a terrorist group or facilitate the activities of the group): <b>maximum 10 years</b><sup>2</sup></p> <p>If prosecuted under <b>Article 114d(2) of the Danish Criminal Code</b> (training for financing of terrorist groups or for joining a group in order to help the group to commit offences involving financing of terrorism): <b>maximum 6 years</b></p> <p>If prosecuted under <b>Article 114d(3) of the Danish Criminal Code</b> ('passive training'): <b>maximum 6 years</b></p>
<b>DE</b> <b>(Deutschland, Germany)</b>	<p><b>Section 91(1) and (2) of the German Criminal Code</b>: <b>maximum 3 years or a fine</b> (for both public provocation and obtaining such material)<sup>3</sup></p>	<p><b>Section 129a(5)(2) of the German Criminal Code</b>: <b>6 months to 5 years</b> (if prosecuted as recruitment of members to a terrorist group)</p> <p>Varying penalty ranges if prosecuted as conspiracy (attempt to incite)</p>	<p><b>Section 89a(1) and (2) of the German Criminal Code</b>: <b>6 months to 10 years</b></p>

<sup>1</sup> This provision introduces an aggravating circumstance increasing the maximum penalty to 16 years in cases where the recruitment is carried out in an organised and systematic manner.

<sup>2</sup> This provision introduces an aggravating circumstance increasing the maximum penalty to 16 years in cases where the training is carried out in an organised and systematic manner.

<sup>3</sup> Section 91(3) allows the court to grant a discharge for offences of a minor nature.

Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
		under <b>Section 30 of the German Criminal Code</b> <sup>4</sup>	
<b>EE (Eesti , Estonia)</b>	<b>Article 237/2(1) of the Estonian Criminal Code</b> (public incitement): <b>2 to 10 years</b>	<b>Article 237/2(1) of the Estonian Criminal Code</b> (recruitment): <b>2 to 10 years</b>	<b>Article 237/2(1) of the Estonian Criminal Code</b> (organisation of training): <b>2 to 10 years</b>
<b>IE (Éire/Ireland, Ireland)</b>	<b>Section 6A(4) of Criminal Justice (Terrorist Offences) (Amendment) Bill (2012): maximum 10 years</b> , or a fine or both <sup>5</sup>	<b>Section 6B(4) of Criminal Justice (Terrorist Offences) (Amendment) Bill (2012): maximum 10 years</b>	<b>Section 6C(7) of Criminal Justice (Terrorist Offences) (Amendment) Bill (2012): maximum 10 years</b>
<b>EL (Ελλάδα, Greece)</b>	n.a.	n.a.	n.a.
<b>ES (España, Spain)</b>	<b>Article 579(1), second alternative of the Spanish Criminal Code</b> , (dissemination of content): <b>6 months to 2 years</b> <sup>6</sup> <b>Article 578</b> (apology for terrorism): <b>1 to 2 years</b>	<b>Article 576(3) of the Spanish Criminal Code: 5 to 10 years</b>	<b>Article 576(3) of the Spanish Criminal Code: 5 to 10 years</b>
<b>FR (France, France)</b>	If prosecuted as direct provocation to commit a crime when acted upon under <b>Article 23 of the 1881 Act on the freedom of the press</b> :	<b>Article 421-2-1 of the French Criminal Code</b> (conspiracy): <b>maximum 10 years</b> (and a fine of up to	<b>Article 421-2-1 of the French Criminal Code</b> (conspiracy): <b>maximum 10 years</b> (and a fine of up to EUR 225 000 <sup>9</sup> )

<sup>4</sup> Sections 30(1)(1) and (2) of the Criminal Code stipulate that the penalty will depend on the felony to which the conspiracy relates and shall be mitigated (relative to the penalty which would be imposed for the attempt to commit the felony in question): in the case of murder, the penalty under Section 30(1) shall be imprisonment of three to 15 years (in accordance with Sections 30(1)(2) and 49(1) point 1 of the Criminal Code); in the case of causing an explosion (Section 308 of the Criminal Code), the sentence shall be imprisonment of three months to 11 years and three months (Sections 30(1)(2) and 49(1) points 2 and 3 of the Criminal Code).

<sup>5</sup> The provision also provides for a lower penalty in the case of a summary conviction —a Class A fine or imprisonment for a term of maximum 12 months or both.

<sup>6</sup> Depending on the circumstances, the behaviour in question may fulfil the conditions for provocation, conspiracy or incitement as defined under Article 579(1) first alternative, in which case the penalty would depend on the penalty for the act to which the conspiracy relates.

Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
	<b>varying penalty ranges<sup>7</sup></b>  If prosecuted as direct provocation to commit a crime when not acted upon under <b>Article 24 of the 1881 Act on the freedom of the press: maximum 5 years</b> (and a fine of up to EUR 45 000)	EUR 225 000 <sup>8</sup> )  <b>Article 421-2-4 of the French Criminal Code: maximum 10 years</b> (and a fine of up to EUR 150 000)	
<b>HR (Hrvatska, Croatia)</b>	<b>Article 99 of the Croatian Criminal Code: 1 to 10 years</b>	<b>Article 100 of the Croatian Criminal Code: 1 to 10 years</b>	<b>Article 101 of the Croatian Criminal Code: 1 to 10 years</b>
<b>IT (Italia, Italy)</b>	<b>Article 302 of the Italian Criminal Code: maximum 8 years<sup>10</sup></b>	<b>Article 270 quater of the Italian Criminal Code: 7 to 15 years</b>	<b>Article 270 quinquies of the Italian Criminal Code: 5 to 10 years</b>
<b>CY (Κύπρος, Cyprus)</b>	<b>Article 12 of the 2010 Law on combating terrorism</b> (dissemination of terrorist material creating the risk of a terrorist offence being committed): <b>maximum 8 years</b>	<b>Article 13 of the 2010 Law on combating terrorism</b> (encouragement of terrorism): <b>maximum 10 years</b>	<b>Article 8 of the 2010 Law on combating terrorism: maximum 8 years</b>
<b>LV (Latvija, Latvia)</b>	<b>Section 88/2 of the Latvian Criminal Code: maximum 8 years</b>	<b>Section 88/3 of the Latvian Criminal Code: maximum 10 years</b> (and possible confiscation of property)	<b>Section 88/3 of the Latvian Criminal Code: maximum 10 years</b> (and possible confiscation of property)
<b>LT (Lietuva,</b>	<b>Article 250-1 of the</b>	<b>Article 250-2 of the</b>	<b>Article 250-5 of the</b>

<sup>9</sup> Penalty laid down in Article 421-4.

<sup>7</sup> Article 23 imposes the same penalty as would apply for being an accomplice to the crime in question. It is therefore not possible to determine the penalty without reference to a particular crime.

<sup>8</sup> Penalty laid down in Article 421-4.

<sup>10</sup> This penalty can be increased by half (i.e. up to a maximum of 12 years) where the incitement relates to a terrorist offence (as a result of the aggravating circumstance introduced by Article 15(1) bis of Law 155/2005).

Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
<b>Lithuania)</b>	<b>Lithuanian Criminal Code:</b> four alternative penalties: fine, restriction of liberty, arrest, and imprisonment of <b>maximum 3 years</b>	<b>Lithuanian Criminal Code:</b> <b>maximum 7 years</b>	<b>Lithuanian Criminal Code:</b> <b>maximum 7 years</b>
<b>LU (Luxembourg, Luxembourg)</b>	<b>Article 135-11</b> in combination with <b>Article 135-14</b> of the <b>Luxembourg Criminal Code:</b> <b>1 to 8 years</b> (and a fine of EUR 2 500 to 12 500, or only one of the two penalties)	<b>Article 135-12</b> in combination with <b>Article 135-14</b> of the <b>Luxembourg Criminal Code:</b> <b>1 to 8 years</b> (and a fine of EUR 2 500 to 12 500 or only one of the two penalties)	<b>Article 135-13</b> in combination with <b>Article 135-14</b> of the <b>Luxembourg Criminal Code:</b> <b>1 to 8 years</b> (and a fine of EUR 2 500 to 12 500, or only one of the two penalties)
<b>HU (Magyarország, Hungary)</b>	<b>Article 315(1) and (2) (instigation) of the Hungarian Criminal Code:</b> <b>2 to 8 years</b> (5 to 10 years in the case of provocation to commit terrorist offences as part of a terrorist group)	<b>Article 315(1) and (2) (instigation) of the Hungarian Criminal Code:</b> <b>2 to 8 years</b> (5 to 10 years in the case of recruitment to commit terrorist offences as part of a terrorist group)	If prosecuted under <b>Article 315(1) (aiding and abetting) of the Hungarian Criminal Code:</b> <b>2 to 8 years</b>  If prosecuted under <b>Article 318(2)</b> as training with a view to the person committing terrorist acts as part of a terrorist group: <b>5 to 10 years</b>
<b>MT (Malta, Malta)</b>	<b>Article 328C(2)(a) of the Maltese Criminal Code:</b> <b>5 years to life</b> <sup>11</sup>	<b>Article 328C(2)(b) of the Maltese Criminal Code:</b> <b>5 years to life</b> <sup>12</sup>	<b>Article 328C(2)(c) of the Maltese Criminal Code:</b> <b>5 years to life</b> <sup>13</sup>
<b>NL (Nederland, Netherlands)</b>	<b>Article 131 of the Dutch Criminal Code</b> (public incitement to terrorism)in combination with	If prosecuted as incitement to terrorism ( <b>Article 131 of the Dutch Criminal Code</b> ):	<b>Article 134a of the Dutch Criminal Code:</b> <b>maximum 8 years</b> (or a fine) <sup>17</sup>

<sup>11</sup> The penalty provided for in Article 328A(3) for terrorist offences.

<sup>12</sup> The penalty provided for in Article 328A(3) for terrorist offences.

<sup>13</sup> The penalty provided for in Article 328A(3) for terrorist offences.



Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
	<p>Article 83b: <b>maximum 5 years</b> (or a fine)<sup>14</sup></p> <p><b>Article 132, of the Dutch Criminal Code</b> (public provocation to terrorism) in combination with Article 83b: <b>maximum 3 years</b> (or a fine)<sup>15</sup></p>	<p><b>maximum 5 years</b> (or a fine)</p> <p>If prosecuted as public provocation to terrorism (<b>Article 132 of the Dutch Criminal Code</b>): <b>maximum 3 years</b> (or a fine)</p> <p>If prosecuted as recruitment to join a foreign military service (<b>Article 205 of the Dutch Criminal Code</b>): <b>maximum 4 years</b><sup>16</sup></p>	
AT (Österreich, Austria)	<p><b>Section 282a(1) of the Austrian Criminal Code</b> (public incitement to terrorist acts) and <b>Section 282a(2) of the Austrian Criminal Code</b> (public approval of terrorist acts): <b>maximum 2 years</b></p>	<p>If prosecuted as incitement under <b>Section 278c(1) of the Austrian Criminal Code</b> in combination with Section 12: <b>maximum 20 years</b></p> <p>If prosecuted as membership of a terrorist group under <b>Section 278b(2) of the Austrian Criminal Code</b>: <b>1 to 10 years</b></p>	<p>If prosecuted as training for the purpose of terrorism under <b>Section 278e(1) of the Austrian Criminal Code</b>: <b>1 to 10 years</b></p> <p>If prosecuted as instruction on the commission of terrorist offences under <b>Section 278f of the Austrian Criminal Code</b>: <b>maximum 2 years</b></p>
PL (Polska, Poland)	If prosecuted as public provocation to commit a crime under <b>Article</b>	If prosecuted as public provocation to commit a crime	If prosecuted as dissemination of material to facilitate the

<sup>17</sup> Article 134a of the Dutch Criminal Code also provides for an alternative in the form of a fifth-category fine.

<sup>14</sup> The penalty for public incitement set out in Article 131(1) of the Dutch Criminal Code (maximum 5 years' imprisonment or a fine) is increased by one third if the incitement relates to the commission of a terrorist offence (see Article 131(2) of the Dutch Criminal Code).

<sup>15</sup> The penalty for public provocation set out under Article 132(1) of the Dutch Criminal Code (maximum 3 years' imprisonment or a fine) is increased by one third if the provocation relates to the commission of a terrorist offence (see Article 132(3) of the Dutch Criminal Code).

<sup>16</sup> The previous footnote applies for penalties imposed under Articles 131 and 132. The penalty for recruitment to a foreign military service (four years' imprisonment may be increased by one third if the armed warfare entails the commission of terrorist offences (see Article 205(3) of the Dutch Criminal Code).



Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
	<p><b>255 of the Polish Criminal Code: maximum 3 years;</b></p> <p>If prosecuted as dissemination of material to facilitate the commission of a terrorist offence under <b>Article 255a of the Polish Criminal Code: 3 months to 5 years</b><sup>18</sup></p>	<p><b>under Article 255 of the Polish Criminal Code: maximum 3 years;</b></p> <p>If prosecuted as dissemination of material to facilitate the commission of a terrorist offence under <b>Article 255a of the Polish Criminal Code: 3 months to 5 years</b><sup>19</sup></p>	<p>commission of a terrorist offence under <b>Article 255a of the Polish Criminal Code: 3 months to 5 years</b><sup>20</sup></p>
PT (Portugal, Portugal)	<p><b>Article 4(3) of the Portuguese Law on counterterrorism: 1 to 5 years</b></p>	<p><b>Article 4(4) of the Portuguese Law on counterterrorism: 2 to 5 years</b></p>	<p><b>Article 4(5) of the Portuguese Law on Counterterrorism: 2 to 5 years</b></p>
RO (România, Romania)	<p><b>Article 33^2 (4) of Law 535/2004 as amended by Law 187/2012: 3 months to 3 years</b></p>	<p><b>Article 33^1 of Law 535/2004 as amended by Law 187/2012: 5 to 12 years</b></p>	<p><b>Article 33(1)(b) of Law 535/2004 as amended by Law 187/2012: 5 to 12 years</b></p> <p>If prosecuted under <b>Article 33(2)(2)</b> (participation in training): <b>2 to 7 years</b></p>
SI (Slovenija, Slovenia)	<p><b>Article 110-1(1) of the Slovenian Criminal Code (public incitement to terrorism): 1 to 10 years</b></p> <p>If prosecuted as public glorification of terrorism under <b>Article 110-1(2) of the Slovenian Criminal</b></p>	<p><b>Article 111(1) of the Slovenian Criminal Code (“conscription”/ recruitment for terrorism): 1 to 10 years</b></p>	<p><b>Article 111(2) of the Slovenian Criminal Code (training for terrorist activities): 1 to 10 years</b></p>

<sup>18</sup> Articles 255(2) and 255a of the Polish Criminal Code, respectively.

<sup>19</sup> Articles 255(2) and 255a of the Polish Criminal Code, respectively.

<sup>20</sup> Article 255a of the Polish Criminal Code.

Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
	Code: 1 to 10 years		
SK (Slovensko, Slovakia)	Section 419(2) (public provocation) of the <b>Slovakian Criminal Code</b> referring to the penalties applicable for terrorist offences under Article 419(1): <b>20 to 25 years or life imprisonment</b>	Section 419(2) (recruitment) of the <b>Slovakian Criminal Code</b> referring to the penalties applicable for terrorist offences under Article 419(1): <b>20 to 25 years or life imprisonment</b>  If prosecuted as support for terrorist groups under <b>Article 297 of the Slovakian Criminal Code: 8 to 15 years</b>	Section 419(2) (training) of the <b>Slovakian Criminal Code</b> referring to the penalties applicable for terrorist offences under Article 419(1): <b>20 to 25 years or life imprisonment</b>
FI (Suomi/Finland, Finmand)	Chapter 34a Section 1 of the <b>Finish Criminal Code: 4 months to 4 years</b>	Chapter 34a Section 4b of the <b>Finish Criminal Code: 4 months to 8 years</b>	Chapter 34a Section 4a of the <b>Finish Criminal Code: 4 months to 8 years</b>
SE (Sverige, Sweden)	Section 3 of the Act on criminal responsibility for public provocation, recruitment and training: <b>maximum 2 years</b> <sup>21</sup>	Section 4 of the Act on criminal responsibility for public provocation, recruitment and training: <b>maximum 2 years</b> <sup>22</sup>	Section 5 of the Act on criminal responsibility for public provocation, recruitment and training: <b>maximum 2 years</b> <sup>23</sup>
UK (United Kingdom)	For encouragement of terrorism under <b>Section 1 of the Terrorism Act 2006:</b>	If prosecuted as a preparatory act for the commission of acts of terrorism	If prosecuted as training for terrorism under <b>Section 6 of the Terrorism Act 2006:</b>

<sup>21</sup> Section 6 of the Act on criminal responsibility for public provocation, recruitment and training allows the penalty range to be increased to a minimum of 6 months and a maximum of 6 years in cases of 'gross crimes' (for instance, where the offence was part of an activity carried out on a larger scale).

<sup>22</sup> Section 6 of the Act on criminal responsibility for public provocation, recruitment and training allows the penalty range to be increased to a minimum of 6 months and a maximum of 6 years in cases of 'gross crimes' (for instance, where the offence was part of an activity carried out on a larger scale).

<sup>23</sup> Section 6 of the Act on criminal responsibility for public provocation, recruitment and training allows the penalty range to be increased to a minimum of 6 months and a maximum of 6 years in cases of 'gross crimes' (for instance, where the offence was part of an activity carried out on a larger scale).

Member State	Penalties under the legal provisions transposing Articles 3(1)(a) to (c) of the 2002 Framework Decision as amended by the 2008 Framework Decision		
	Public provocation	Recruitment	Training
	<p><b>maximum 7 years or a fine or both</b></p> <p>For dissemination of terrorist publications under <b>Section 2 of the Terrorism Act 2006: maximum 7 years or a fine or both</b></p>	<p><b>under Section 5 of the Terrorism Act 2006: maximum life imprisonment</b></p>	<p><b>maximum 10 years or a fine or both<sup>24</sup></b></p> <p>If prosecuted as weapon training under <b>Section 54 of the Terrorism Act 2000: maximum 10 years or a fine or both<sup>25</sup></b></p> <p>If prosecuted as attendance at training under <b>Section 8 of the Terrorism Act 2006: maximum 10 years or a fine or both</b></p>

<sup>24</sup> Section 6 of the Terrorism Act 2006 provides for the same penalty for those who receive training or instruction.

<sup>25</sup> Section 54 of the Terrorism Act 2006 provides for the same penalty for those who receive training or instruction or invite others to receive training and instruction.