

CYPRUS



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NATIONAL POLICY

Despite the fact that the terrorist threat to the Republic of Cyprus is considered low, the Government has joined forces with the European Union and the International Community in general in the fight against terrorism. The fight against terrorism is one of the top priorities of the Republic's foreign policy. In this context, the Republic of Cyprus is taking practical measures and providing all the necessary mechanisms to ensure that it participates effectively and efficiently in the global efforts for the suppression and the prevention of terrorism.

LEGAL FRAMEWORK

Penal law

The legal basis for the prosecution of terrorist crimes derives both from domestic legislation and from international conventions which have been ratified by the Republic of Cyprus.

The main statute which provides this framework is the Criminal Code, Cap. 154. The Code does not include any specific crime of terrorism. However, there is a wide range of provisions which can be used for the formulation of charges in connection with terrorist activities. For example, apart from the obvious offences against the person (such as murder, manslaughter, causing grievous bodily harm etc.) and those against property (such as arson, attempt to destroy property with the use of explosives etc.), it is an offence under the Criminal Code to participate in any manner in the activities of a criminal organisation (sections 63A and 63B). In this context, courts have jurisdiction even if the criminal organisation operates outside the Republic. It must also be noted that, pursuant to Section 20 of the Criminal Code, any person who aids or abets or procures or counsels another to commit an offence, is guilty of the offence itself and may be charged as a principal offender.

The provisions of the Criminal Code, in conjunction with other legislation such as the Explosive Substances Law, Cap. 54 and the Firearms Law of 1974, Law 38/1974 provide a legal framework for the prosecution of terrorist offences.

Furthermore, the Republic of Cyprus has signed and ratified the twelve United Nations conventions on terrorism. Thus the commission of any of the prohibited acts prescribed therein can be the subject of criminal prosecution in the Republic.

The same applies to the relevant conventions of the Council of Europe to which the Republic is a contracting party.

Despite the fact that the existing legal framework provides an adequate basis for the prosecution of terrorist offences, the Ministry of Justice and Public Order is at the moment preparing new anti-terrorist legislation. The intention is to have a comprehensive law governing the matter. A draft has been prepared in line with the relevant Framework Decisions of the Council of the European Union on Combating Terrorism. When the draft is finalised, it will be submitted first to the Council of Ministers for approval and subsequently to the House of Representatives.

Interception of Communications

For the moment, this investigation technique is not available. The right to respect for private communications is safeguarded through express constitutional provisions and cannot be interfered with for investigation purposes.

However, following a long public debate on the matter, the competent Parliamentary Committee has recently expressed its willingness to approve an amendment of the Constitution so as to allow the interception of communications in the context of the investigation of serious crime. Therefore, there will soon be developments in this area.

Controlled delivery

Through the Suppression of Crime (Controlled Delivery) Law of 1995, Law 3(I)/1995, it has become possible for this special investigation technique to be used in connection with certain specified crimes which include the illegal trading of weapons and explosive substances.

Covert surveillance:

The matter is not specifically governed by legislation. The admissibility of evidence obtained through covert surveillance is an issue determined in the context of the criminal trial. The general rule is that such evidence is admissible unless it has been obtained in circumstances which amount to a violation of the fundamental rights and liberties which are protected by the Constitution.

The use of police agents

Again the matter is not regulated by statute. However, case-law has established the rule that the use of agents for the detection of crime is not in itself prohibited. Evidence obtained through the use of police agents is admissible unless it is shown that it is the acts and the encouragement of the agent that actually led the accused to the commission of the offence.

Prosecution

Once the investigation is completed, the police submits the file to the Law Office of the Republic where the evidence is evaluated and a decision is taken as to whether or not prosecution will follow. The decision to prosecute is made by the Attorney General.

Criminal cases involving offences punishable with imprisonment exceeding five years, come within the competence of the Assize Court which consists of three professional judges.

Jurisdiction

The criminal jurisdiction of the Courts of the Republic is determined in Section 5 of the Criminal Code, Cap. 154. As a general rule, the Courts have extra-territorial jurisdiction over offences committed abroad provided that the accused is a Cypriot and the double criminality rule is satisfied.

Section 5 grants Cyprus' Courts universal jurisdiction in relation to certain prescribed crimes such as piracy and illegal trading in dangerous substances.

It is worth noting that, by virtue of the provisions of the Law Extending the Jurisdiction of Domestic Courts in Relation to Certain Terrorist Offences of 1979, Law 9/1979, the Courts of the Republic may assume jurisdiction in connection to any offence contrary to Section 1 of the European Convention on the Suppression of Terrorism of 1977 which is committed in any part of the world by any person.

Preventing the financing of terrorism

In recent years, international experience has proved that one of the most efficient means to combat terrorism is to intervene effectively in the process of its financing. In this context, the Republic of Cyprus has adopted a wide range of measures and mechanisms, both at an administrative and a judicial level.

Through Law No. 29(III)/2001, the Republic of Cyprus ratified the UN Convention on the Suppression of the Financing of Terrorism.

It is expressly provided in the Ratification Law that the offences prescribed in the UN Convention are predicate offences within the meaning of the Prevention and Suppression of Money Laundering Activities Law 1996 – 2004.

This means that the provisions of the Prevention and Suppression of Money Laundering Activities Law of 1996 – 2004 can be resorted to in connection with any transactions suspected of relating to terrorist activities.

Consequently, banks and other financial institutions are required to report to the Unit for Combating Money Laundering (FIU of Cyprus) any suspicious transactions which may relate to the financing of terrorist activities. All relevant provisions of the Prevention and Suppression of Money Laundering Activities Law on freezing and confiscation are applicable in cases of property or assets related to terrorist financing. Therefore, upon an *ex parte* application made by the Unit, courts may issue freezing orders affecting any property suspected of being connected with the financing of terrorist activities.

On 1.11.2002, the Unit for Combating Money Laundering issued new Guidance Notes to all banking institutions in Cyprus, informing them of the tasks and powers assigned to the Unit under the Law ratifying the United Nations Convention on the Financing of Terrorism and of their obligation to report to the Unit any suspicious transactions related to the financing of terrorism.

Control of cash movements

One very important aspect of the effort to prevent terrorist financing is the control of the movement and the use of cash. Therefore, specific preventive measures are taken in order to exercise vigilance over the movement of cash.

The Central Bank of Cyprus issued a Guidance Note to banking institutions, prohibiting the acceptance by banks of cash deposits in foreign currency notes in

excess of US\$100 000 from a client or a group of related clients, without the prior written approval of the Central Bank of Cyprus.

The Capital Movement Law of 2003 gives the Customs Department authority and responsibility to exercise control over cash movements through the points of entry/exit in/out of the Republic of Cyprus.

More specifically, according to Section 15 of this Law, any person entering or leaving Cyprus is obliged to declare to the Customs any cash currency equivalent to or exceeding CY£7 300 or €12 500. Violation of this obligation constitutes a criminal offence.

Lists of persons and/or entities involved in terrorism

The Council of Ministers, in pursuance of its powers under Article 54 of the Constitution, has adopted the resolutions of the United Nations Sanctions Committee with regard to the imposition of restrictive measures on prescribed persons and/or entities. The same applies to the relevant European Union Common Positions.

The relevant lists are constantly updated by the Ministry for Foreign Affairs who communicates to all competent authorities any changes in the lists.

All competent authorities and, most importantly, all financial institutions are instructed to conduct inquiries for the identification of assets in the possession of listed persons and/or entities for the purpose of freezing such assets.

Freezing action may be taken in connection with funds or other assets wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities and may extend to funds or assets derived from such assets or funds.

Other relevant legislation

Witness protection

The Protection of Witnesses Law of 2001, Law 95(I)/2001, regulates the matter fully. *Inter alia*, it authorizes the establishment and the operation, under the control and the supervision of the Attorney General, of a Scheme for the Protection of Witnesses. Under the Scheme a series of protective measures may be taken so as to encourage and safeguard the testimony of vital witnesses who would have otherwise been at risk.

Compensation of victims

There is no specific legislation with regard to victims of terrorism. However, the Compensation of Victims

of Violent Crimes Law of 1997, Law 51(I)/1997, applies to victims of all violent crimes, including terrorist crimes.

INSTITUTIONAL FRAMEWORK

A number of different authorities are involved in the fight against terrorism. These include the Ministry of Justice and Public Order, the police, the Ministry for Foreign Affairs, the Law Office of the Republic, the Unit for Combating Money Laundering (FIU) of Cyprus and the Department of Customs and Excise.

The Government soon recognised the need for co-ordination between the various authorities involved in the implementation of counter-terrorism policy. Therefore, the Council of Ministers, through its Decision No. 54.694 of 6 December 2001, set up the "Counter-Terrorism Coordination Body". The Body is chaired by the Attorney General of the Republic and consists of representatives of the Ministry for Foreign Affairs, the Ministry of Justice and Public Order, the Law Office of the Republic, the Unit for Combating Money Laundering, the Department of Customs and Excise and the Central Information Service.

It is convened once a month and has extra meetings whenever necessary. During these meetings there are exchanges of information and discussions on current matters relating to anti-terrorist activities. Experience has proved that, through the operation of the Coordination Body, it has become possible for matters to be run more efficiently and for day-to-day problems to be solved quickly. Furthermore, the operation of the Coordination Body has proved to be the answer to complications brought about by bureaucracy and to difficulties arising because of the overlapping of competences between the various authorities involved.

Furthermore a special Office for Combating Terrorism operates at Police Headquarters in the European Union and International Co-operation Directorate. Its tasks include the collection and evaluation of information relating to terrorist groups and organisations. For this purpose, the Office keeps a constantly updated database of facts and information on terrorist activities worldwide. The Office co-operates with other competent authorities both at a European and an International level, such as Interpol and Europol, for the exchange and the joint evaluation of information and for the purposes of mutual assistance.

At the domestic level, the Office works in close co-operation with the Central Information Service which itself has an analysis unit specialized in the collection and evaluation of information relating to terrorism. It must be noted that the Central

Information Service is a part of the Republic's Police Force but, as regards operational matters, it is directly accountable to the President.

The Office also works in co-operation with the Aliens and Immigration Unit which is in charge of the control of arrivals and departures at the points of entry in the Republic, of passport and visa control, of the control of illegal immigration and of employment and residence matters relating to foreigners.

Furthermore, the Department of Customs and Excise, which is responsible for the implementation of legislation imposing restrictions on the import and export of goods, is granted wide powers in this respect. The recently restructured Customs Code, Law 94(1)/2004, allows customs officers, *inter alia*, to examine goods, require further information and documents relating to the movement of goods, search persons, premises, vehicles, vessels, aircrafts and customs-controlled areas, seize and detain goods and documents and conduct audit controls of business records.

Border surveillance is carried out through the operation of Mobile Customs Units which, in co-operation with other competent authorities, engage in anti-smuggling activities and carry out risk-based controls and spot checks.

INTERNATIONAL CO-OPERATION

Mutual Assistance and Extradition

The Republic of Cyprus is a party to bilateral and multilateral treaties in the field of mutual assistance and extradition. *Inter alia*, it has signed and ratified the European Convention on Mutual Assistance in Criminal Matters and the First Additional Protocol thereto. The Second Additional Protocol has also been signed but not yet ratified.

The Republic has also signed and ratified the European Convention on Extradition and the two additional Protocols thereto. Furthermore, through the Law for the European Warrant of Arrest and the

Procedures for the Surrender of Wanted Persons Law of 2004, Law 133(1)/2004, the Republic has adopted the provisions of the relevant Framework Decision of the Council of the European Union.

United Nations

The Republic of Cyprus has signed and ratified the twelve United Nations conventions on terrorism.

Council of Europe

The Republic of Cyprus has signed and ratified the relevant Council of Europe conventions, as set out in the attached table. At the moment, the Ministry of Justice and Public Order is engaged in preparing the Bill for the ratification of the Council of Europe Convention on the Prevention of Terrorism, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism and the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

European Union

Being a member of the European Union, the Republic of Cyprus has adopted the relevant Framework decisions of the Council of the European Union on combating terrorism.

Financial Action Task Force against Money Laundering (FATF)

The Republic of Cyprus is a member of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) of the Council of Europe, a FATF-style regional body, consisting of members of the Council of Europe which are not members of the FATF. The Cyprus Unit operates in co-operation with the respective Units of other countries. The Nine Special Recommendations of the FATF on Terrorist Financing are fully implemented.

Relevant Council of Europe conventions – Cyprus	Signed	Ratified
European Convention on the Suppression of Terrorism (ETS 90)	27/01/1977	26/02/1979
Amending Protocol (ETS 190)	15/05/2003	06/08/2004
European Convention on Extradition (ETS 24)	18/09/1970	22/01/1971
First Additional Protocol (ETS 86)	01/09/1978	22/05/1979
Second Additional Protocol (ETS 98)	21/06/1983	13/04/1984
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	27/03/1996	24/02/2000
First Additional Protocol (ETS 99)	27/03/1996	24/02/2000
Second Additional Protocol (ETS 182)	08/11/2001	-
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	09/02/2000	19/12/2001
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	09/01/1991	17/01/2001
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	08/11/1990	15/11/1996
Convention on Cybercrime (ETS 185)	23/11/2001	19/01/2005
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	19/01/2005	23/06/2005
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	16/05/2005	-
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	16/05/2005	-