



GEORGIA

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NATIONAL POLICY

The terrorist attacks which started on 11 September 2001 served as a reminder of the complexities of shaping a new international system free from terror and based on the values of the Millennium Declaration, namely: Freedom, Equality, Solidarity, Tolerance, Respect for Nature and Shared Responsibility.

Given the nature of terrorism it is clear that the effective response to this threat lies in the intersection of legal, political and economic measures.

Georgia is an active member of the global anti-terrorist coalition and participates in multinational anti-terrorist, peacekeeping, search and rescue and humanitarian operations.

Georgia opposes any form of terrorism and acknowledges the growing threat of international terrorism and its new forms.

According to the National Security Concept of Georgia, adopted by the Parliament in May 2005, international terrorism is a considerable threat to the national security of Georgia. As a member of the international anti-terrorist coalition, Georgia may become a target of international terrorist attacks. These may be directed against strategic infrastructure, such as international oil and gas pipelines and other state assets located in Georgia.

The national anti-terrorist policy of Georgia aims at providing security for Georgian citizens and state and non-state institutions.

To this end, Georgia is currently embarked on a large-scale reform of its security forces and on the development of effective measures against international terrorism; money laundering; trafficking in human beings, drugs, arms and explosives; and cyber-terrorism.

In order to avoid the misuse of the Georgian territory for transit functions by international terrorists, the Government of Georgia is strengthening border protection and co-operating closely with neighbouring countries in anti-terrorist activities.

At the same time, it works on the establishment of clearly defined procedures for the investigation of terrorist acts, the reinforcement of anti-terrorist intelligence and counterintelligence capabilities, and the identification of individuals involved in ordering and executing terrorist acts.

LEGAL FRAMEWORK

Penal law

The Criminal Code of Georgia establishes criminal liability for terrorist acts. Paragraph 1, Article 227, Chapter 41 of the Criminal Code of Georgia defines *terrorist act* as any of the following offences: causing explosions, arson, using weapons or other actions, which cause the destruction of human life, substantial damage to property or other grave results and infringe on public security and the strategic, political and economic interests of the state, if this action is committed for the purpose of intimidating the population and influencing government bodies. Such offences shall be punished by five to ten years' imprisonment.

Paragraph 2 of the same Article establishes that if the above-mentioned actions are committed by a group, repeatedly or by using means of mass destruction they will be punished by eight to fifteen years' imprisonment.

Where such actions are committed by a terrorist group or where they cause the destruction of human life or other grave results, they shall be punished by fifteen to twenty years' imprisonment or imprisonment for an indefinite period; and where they are caused by negligence, they will be punished by ten to seventeen years' imprisonment.

Article 228 sanctions bio/nuclear-terrorism with eight to fifteen years' imprisonment. Bio/nuclear-terrorism is defined as: the use of or threatening to use nuclear, radiological, chemical or bacteriological weapons or their components, pathogenic microorganisms, radioactive or other hazardous substances dangerous to health, including the seizure of nuclear and chemical objects or objects of strong technological and ecological danger, where this infringes on public security and/or the strategic, political and economic interests of the state, and is

committed for the purpose of intimidating the population and influencing government bodies.

Article 229 establishes the criminal liability of a person who commits attacks against public authorities, including the President of the Republic and other political officials, or members of their family and their property. Such acts are punished with seven to twenty years' imprisonment or imprisonment for an indefinite period.

Article 230 provides for such crimes where they are committed against representatives of foreign countries under international protection. They are punished in the same way as in cases where national officials are concerned.

Persons who have participated in the preparation of such acts shall be released from criminal liability if they assist the law-enforcement authorities in preventing their perpetration by informing the authorities or in other ways, provided that no other crimes have been committed by these persons.

In addition to the criminalization of individual terrorist acts, the Criminal Code provides for the criminalisation of certain terrorist offences committed by organisations in Article 231.

Establishing or directing a terrorist organisation is punished with seven to fifteen years' imprisonment, while participation in the activities of such an organisation is punished with five to seven years' imprisonment.

Article 232 further provides for cases where such organisations are under the control of a foreign country.

Article 233 provides for the offence of the seizure of hostages for terrorist purposes, which is defined as the seizure of hostages for the purpose of forcing the state authority, international or religious organisations to perform or not perform different actions on the condition of releasing the victim. It is punished with seven to thirteen years' imprisonment. Where such an offence concerns the public authorities of Georgia or their family members, official representatives of foreign countries or persons subject to international protection, they shall be punished with eight to fifteen years' imprisonment.

Where such actions result in death or other grave results, they shall be punished by twelve to twenty years' imprisonment.

Procedural law

Jurisdiction

According to Article 3 of the Constitution of Georgia, state defence, security, the criminal police and investigation fall within the exclusive competence of the higher state bodies of Georgia.

The Criminal Code provides for the jurisdiction of the Georgian courts over offences committed by persons on the territory of Georgia, irrespective of their citizenship, place of residence or applicable national laws.

According to Article 247 of the Criminal Procedural Code of Georgia, only Georgian judicial, investigative and prosecuting authorities are entitled to carry out investigation or inquiry activities on the basis of a request from the relevant foreign services and according to the agreement between the Government of Georgia and the requesting authorities.

Where there is no agreement between Georgia and another state interested in carrying out an investigation, an *ad hoc* agreement on international legal assistance can be reached between the Minister of Justice or the Prosecutor General of Georgia and the similar authorities of the requesting country.

Georgia has acceded to a number of universal and Council of Europe conventions against terrorism (see the section on *International Co-operation* below).

Criminal Procedure

The criminal procedure of Georgia does not contain any special provision that applies to persons who are suspected of terrorist acts.

During pre-trial investigations and legal proceedings, persons who are suspected of terrorist acts have the same rights and duties as any other persons suspected of any other criminal offence.

INSTITUTIONAL FRAMEWORK

As a result of reorganisation within the **Ministry of Internal Affairs**, in July 2005 the Counter-Terrorist Centre was founded. In the Centre information on expected and possible threats are accumulated and analyzed, measures are planned and carried out.

The Centre consists of three divisions. It fulfils the responsibilities imposed on it on the basis of the principles of law, human rights and freedoms, justice, humanism, confidentiality and secrecy.

The Counter-Terrorist Centre co-operates intensively with the counter-terrorist structures of the UN, the OSCE, NATO and other international organisations in the sphere of sharing information concerning terrorism and on legislative issues.

The **Foreign Service**, within its sphere of competence, supports the fight against the threats and challenges of terrorism, and participates in creation of an effective crisis management system by obtaining help and know-how from our strategic partners.

The **General Prosecutor's Office** is responsible for the pre-trial investigation of terrorist acts. As regards legal assistance, the Office of the Prosecutor General receives requests for legal assistance from foreign countries, refers them to the relevant national bodies and exercises overall control of their effective and speedy execution.

The **Ministry of Defence** elaborated the National Security Concept and the National Military Strategy defining the overall defence objectives of Georgia, based on current national values, interests and security requirements. These objectives consider the ongoing separatist issues, regional and international terrorism and other current threats.

The Military Police Service (MPS) is an essential structural unit of the Ministry of Defence which provides legal order and control within the Georgian Armed Forces (GAF). This new unit must be well manned, equipped and trained to accomplish missions both within and outside of the country, including peacekeeping and anti-terrorist operations.

INTERNATIONAL CO-OPERATION

United Nations

Georgia is a Party to nine out of the thirteen UN conventions against terrorism. However, it is not a Party to the following: the Convention on the Physical Protection of Nuclear Material (Vienna, 1979), the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (Rome, 1988), its Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 1988) or the International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 2005).

Georgia co-operates closely with UN Security Council Counter-Terrorism Committee established by Resolution 1373 (2001).

European Union

Under the *EU European Neighbourhood Policy* Georgia is invited to enter into intensified political, security, economic and cultural relations with the EU and has enhanced regional and cross border co-operation and shared responsibility in conflict prevention and conflict resolution.

An Action Plan sets out a number of priorities for co-operation, some beyond the scope of the Partnership and Co-operation Agreement, including in the area of anti-terrorism.

Council of Europe

Georgia participates actively in the Council of Europe's work against terrorism. It is a Party to a number Council of Europe conventions against terrorism and to several Council of Europe instruments relating to international co-operation. The state of signatures and ratifications of the relevant conventions appears below.

OSCE

Georgia participates actively in the work of the OSCE against terrorism.

The OSCE field office in Georgia assists the Georgian Government in implementing UN Security Council Resolutions and conventions and contributes to capacity-building aimed at strengthening co-operation between the various national anti-terrorism agencies and relevant international and regional organisations through the development of a common system for gathering, analyzing, storing and retrieving information about convicted or suspected terrorists and criminals.

NATO

Georgia takes part in the international fight against terrorism by offering the following contribution within the PAP-T framework: enhancement of national capabilities to combat terrorism; enhancement of border control, including by increasing the number of border police stations and checkpoints; conduct of co-operative research for improving defence against terrorism.

Georgia intends to use scientific co-operation with NATO to support national reform efforts and help address the social, economic and environmental implications of this reform. It will also strive to enhance the capabilities of the Georgian scientific, academic and government institutions to better contribute to meeting threats to security, including terrorism.

Relevant Council of Europe conventions - Georgia	Signed	Ratified
European Convention on the Suppression of Terrorism (ETS 90)	11/05/2000	14/12/2000
Amending Protocol (ETS 190)	15/05/2003	08/12/2004
European Convention on Extradition (ETS 24)	22/03/2000	15/06/2001
First Additional Protocol (ETS 86)	15/10/1975	15/06/2001
Second Additional Protocol (ETS 98)	22/03/2000	15/06/2001
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	27/04/1999	13/10/1999
First Additional Protocol (ETS 99)	07/11/2001	22/05/2003
Second Additional Protocol (ETS 182)	-	-
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	-	-
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	-	-
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	30/04/2002	13/05/2004
Convention on Cybercrime (ETS 185)	-	-
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	-	-
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	14/12/2005	-
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	-	-