

# LATVIA



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## NATIONAL POLICY

Taking into account the recent negative and alarming activities of terrorist groups in different parts of the world, the Government of Latvia has taken several important steps to improve the national capacity to fight against terrorism.

Subparagraph 25 of the Declaration of Government states that "the Government, taking into account recent accession to the NATO, shall increase the State's and its population's security and defence abilities from new challenges and threats such as terrorism and proliferation of weapons of mass destruction". Moreover, the Government of Latvia has adopted and implemented the Action Plan for Combating Terrorism. The plan consists of legislative, executive and regulatory measures concerning international co-operation. The main goal of the Action Plan is to prevent any possibilities of Latvian territory, banking systems, financial and other forms of support being used for international terrorism and to increase the power of law enforcement authorities controlling financial transactions.

The Government continues strengthening legislation in order to prevent any terrorist-related activities in Latvia. Moreover, the Government of Latvia has made an effort to improve international co-operation in the field of the suppression of terrorism.

## LEGAL FRAMEWORK

### Penal law

In accordance with the legislation of Latvia, the legal provision for the suppression of terrorism is incorporated in the Criminal Law. The first paragraph of Section 88 of the Criminal Law defines the concept of terrorism and determines liability for that, providing that terrorism is causing an explosion or fire, or other intentional acts directed towards the destruction of human beings or infliction of bodily injury or other harm to the health of human beings, or the destruction or damaging of undertakings, structures, oil or gas

lines, power lines, transport routes and means of transport, telecommunications networks, ionising radiation facilities or other property of national significance for the purposes of harming the Republic of Latvia or its inhabitants, or causing, for the same purposes, a nuclear accident, radiation accident, mass poisoning, or spreading of epidemics and epizootic diseases.

The second paragraph of the said Section states the penalty not only for the offences mentioned in the first paragraph, but also for threats to commit such acts. A threat is defined as an act committed by a person where such a person presents a demand to a State institution or an International Organisation to take or refrain from any action. Furthermore, there must be grounds to believe that these threats may be carried out. Violence against the civil population is stated as an aggravating circumstance. Criminal Law defines terrorism as a serious crime against the interests of the State. The maximum applicable sentence for terrorism, in accordance with Section 88, is life imprisonment with confiscation of property.

The suppression of terrorism also falls under Section 89<sup>1</sup>. This section sets the liability for the establishment of a criminal organisation, providing that not only persons who have established, lead or participated in the commission of especially serious crimes against State interests, but also persons who are aware of a criminal organisation's goals and intentionally involve themselves in this organisation or in its substructures, shall be liable in accordance with this Section. The financing of terrorism also falls under this Section, because if a person provides financial support to this kind of organisation, he/she has intentionally involved him/herself in this criminal organisation.

Furthermore, the provisions of the Criminal Law set out liability for several criminal offences closely linked to terrorism and defined as different forms of terrorism, such as seizure of hostages, seizure of air or water transport vehicles, laundering of the proceeds from crime, intentional destruction of and damage to property, unauthorised manufacturing, acquisition, storage and sale of weapons, ammunition and explosives and murder committed in aggravating circumstances.

## Procedural rules

The investigation and prosecution of terrorism is based on the criminal procedure principles and provisions incorporated into the Code of Criminal Procedure. However, in accordance with the legislation of Latvia, if the crime committed is especially serious, the provisions of the Investigatory Operations Law are applicable. There are no specific procedural rules applicable to terrorism.

As described above, the investigation and prosecution of acts of terrorism fall under the Code of Criminal Procedure and the Investigatory Operations Law. Part 7 of Section 77 and part 3 of Section 77<sup>1</sup> of the Code of Criminal Procedure provide the possibility to prolong the pre-trial detention if the person is suspected of committing an especially serious crime and if this crime is linked to violence or to a threat of violence, providing that pre-trial detention does not exceed one and half a years. Terrorism, in accordance with the Criminal Law, falls under the definition of especially serious crime.

Specific procedural protection of victims and witnesses or persons whose endangerment could influence a person bearing witness, in the case of especially serious crimes, is provided for by Chapter 9.A of Code of Criminal Procedure. This Chapter also provides for the possibility to apply specific procedural protection to suspects, the accused, possible defendants and people convicted for serious or especially serious crimes, if the person is bearing witnesses in the case of an especially serious crime.

Terrorism or crimes linked to different forms of terrorism are considered criminal offences by the Code of Criminal Procedure. During the investigation of such offences, the specific procedural protection may be applicable on the following conditions:

1. The life, property or other lawful interests of a person bearing witness have been endangered;
2. A threat to endanger the above has been expressed;
3. There are grounds to believe that the threat may be carried out.

The Investigatory Operations Law sets out the provisions for covert legal activities of specially authorised officials of State authorities, the objectives of which are the protection of the life and health, rights and freedoms, honour, dignity and property of persons and the safeguarding of the Constitution, the political system, national independence and territorial integrity, the

capabilities of the State regarding defence, the economy, science and technology, and State official secrets, against external and internal threats.

Terrorism, if it meets the requirements of the Investigatory Operations Law in a particular case, shall be investigated in accordance with the provisions of the said Law. All investigatory activities and the methods of their realisation shall be carried out only in accordance with the special method and with the approval of a judge. Permission to perform such investigatory operation activities may be issued for a period of up to three months and may be extended where it is substantiated that it is necessary, but only for the period of time that the investigatory process is being carried out with respect to the person. The said Law contains provisions allowing the necessary steps to be taken without the permission of judge to preclude the commission of a crime, if immediate action is essential to prevent threats to the State or to its population (including terrorism). The above permission shall be obtained afterwards, within a period of 72 hours. Otherwise the investigatory operations activities shall be discontinued.

In the same manner as the Code of Criminal Procedure, the Investigatory Operations Law contains provisions for the protection of a person bearing witness.

It should be noted that a new Criminal Procedure Law has been submitted to the Parliament. However, the provisions of the new Criminal Procedure Law do not in general contradict the provisions of the present Code of Criminal Procedure. The new Law amends and supplements the present provisions of the Code to improve the criminal procedure and procedural guaranties for persons involved in criminal proceedings.

## Other relevant legislation

The suppression of the financing of terrorism falls under the Law on Prevention of the Laundering of the Proceeds from Crime. Part 2 of Section 4 of this law sets out that proceeds from crime shall also be acknowledged financial resources and other property, which is controlled (directly or indirectly) or owned by a person included in one of the lists of persons suspected of committing or participating in an act of terrorism, compiled by a State or international organisation in conformity with the criteria specified by the Cabinet of Ministers of the Republic of Latvia, or a person regarding whom institutions referred to in Section 33 of said Law have information which gives sufficient grounds to hold such a person on

suspicion of committing or participating in a crime, such as an act of terrorism. In accordance with this law and in conjunction with international obligations, the Cabinet of Ministers has elaborated and approved Regulation on "Lists of Persons Suspected for Commitment of Terrorism or Persons Involved in Commitment of Terror Attacks Issued by States of International Organizations". The control over these proceeds is realized by the Service for the Prevention of the Laundering of the Proceeds of Crime.

Part 1 of Section 63 of the Credit Institution Law sets out that information about the accounts of and transactions conducted by natural and legal persons shall be submitted to such an extent as is necessary for the performance of the relevant functions, only to the State authorities indicated in this Section in accordance with the procedures specified by law. In accordance with paragraph 1 of part 1 of the said Section, information shall be submitted to the Court and the Office of the Prosecutor if it is necessary for the performance of its functions. Paragraph 6 of part 1 of the said Section provides that credit institutions shall give the information to the State security institutions on the basis of a request accepted by the Prosecutor General or a specially authorised prosecutor if the information is necessary in order to examine persons or financial means associated with terrorism. Part 3 of Section 63 of the said Law provides that credit institutions shall submit the information on the basis of a written request from a State institution or official, which indicates the particular person to be investigated and states the reasons for the need for information in accordance with the requirements of the particular law.

## **INSTITUTIONAL FRAMEWORK**

There are several institutions involved in the suppression of terrorism.

The main authority investigating acts of terrorism is the Security Police. Moreover, the Security Police are responsible for collecting, acquiring and analysing information concerning threats of terrorist attacks and also for the prevention of possible terrorist attacks.

The main non-military state security institution performing, organising and coordinating the intelligence (counterintelligence) activities of state security establishments is the Constitutional Defence Bureau. The Constitutional Defence Bureau receives, compiles, stores, saves, analyses and utilises information related to state security, defence and economic sovereignty, in order to secure the State constitutional system, State

independence and territorial inviolability against external and internal threats including, *inter alia*, national or international terrorism.

The national authority responsible for the investigation and prosecution of acts of terrorism and for international co-operation at the operational level (institutional co-operation) in criminal matters, including terrorism, is the Prosecutor's General Office.

In accordance with Section 32 of the Code of Criminal Procedure, the Regional Courts shall judge criminal offences against the State, *inter alia*, terrorism. The decision of the Regional Court can be appealed to the Supreme Court.

The Ministry for Foreign Affairs and the Ministry of the Interior are also involved in the activities related to the suppression of terrorism. In accordance with the National Security Law, the competence of the Ministry of the Interior covers the issues of the elaboration and implementation of the national home affairs policy, including the prevention of terrorism in all its forms.

The Ministry for Foreign Affairs is responsible for the implementation of the State policy of external security, the co-ordination of the ratification and implementation of international agreements, whether multilateral or bilateral, the analysis of the foreign and internal policy of foreign states, and the presentation of the national position and policy to the International community.

## **INTERNATIONAL CO-OPERATION**

Taking into account that in general all forms of national terrorism are linked to international terrorism, the Republic of Latvia places international co-operation as a primary issue in the fight against terrorism. The main guideline for the Latvian Government in its actions against terrorism is Resolution 1373 of the Security Council of the United Nations adopted on 28 September 2001. This Resolution states the principles and the frame actions to combat international terrorism. Latvia, contributing to the international efforts in combating terrorism, has become a party to a number of international legal instruments elaborated by international organisations or created on a bilateral level. Latvia actively takes part in the work of the United Nations, the Council of Europe and the European Union in the field of the elaboration of legal instruments for the suppression of terrorism. Latvia is a party to all universal anti-terrorism instruments and also to the European Convention on the Suppression of Terrorism. Moreover, Latvia has signed the

Additional Protocol to the European Convention on the Suppression of Terrorism.

Latvia has followed the development of the EU Action Plan on Combating Terrorism and has supported the EU Declaration on Combating Terrorism of 25 March 2004. Representatives from the Ministries of the Interior and for Foreign Affairs, as well as from other national institutions involved, participate in various seminars and EU Council working parties focused on combating terrorism on a regular basis.

Latvia is looking forward to complying with the deadlines set out in the EU Declaration on Combating Terrorism regarding the incorporation of various practical co-operation measures and framework decisions into national legislation, such as those on the European Arrest Warrant, Joint Investigation Teams and Combating Terrorism.

Five decisions have already been completely incorporated into the Latvian legal framework, while the deadline for the other six legal provisions is set for the end of the year 2004, as required by the Declaration.

The Government of Latvia also pays attention to international co-operation in the criminal matters. This co-operation is based on the principles of permanent and ad hoc bilateral and multilateral co-operation. Latvia has ratified several multilateral international agreements and concluded bilateral agreements in field of mutual assistance in criminal matters. Furthermore, the Republic of Latvia is a party to all the conventions concluded within the Council of Europe on extradition and has signed the Additional Protocol to the Cybercrime Convention and the Amending Protocol to the European Convention on the Suppression of Terrorism.

<b>Relevant Council of Europe conventions - Latvia</b>	<b>Signed</b>	<b>Ratified</b>
European Convention on the Suppression of Terrorism (ETS 90)	08/09/1998	20/04/1999
Amending Protocol (ETS 190)	05/05/2004	
European Convention on Extradition (ETS 24)	30/10/1996	02/05/1997
First Additional Protocol (ETS 86)	30/10/1996	02/05/1997
Second Additional Protocol (ETS 98)	30/10/1996	02/05/1997
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	30/10/1996	02/06/1997
First Additional Protocol (ETS 99)	30/10/1996	02/06/1997
Second Additional Protocol (ETS 182)	24/09/2003	30/03/2004
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	30/10/1996	02/06/1997
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	11/03/1998	01/12/1998
Convention on Cybercrime (ETS 185)	05/05/2004	
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	05/05/2004	