

# SLOVENIA



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## NATIONAL POLICY

Slovenia condemns terrorism in any form and expresses solidarity with all countries that have been victims of terrorist attacks.

Slovenia as a member of the United Nations, European Union, North Atlantic Treaty Organisation, Council of Europe and Organisation for Security and Cooperation in Europe, actively participates and cooperates in the framework of these fora.

Slovenia supports the UN as the only truly global forum for combating terrorism. The UN has a key role in mobilising the international community against terrorism. Slovenia places high priority on the conclusion of a Comprehensive Convention on International Terrorism and remains committed to achieving consensus on that subject in the UN.

Full respect for values, such as democracy, human rights and the rule of law is the most effective instrument in countering terrorism in the long run. Any measures we undertake to prevent and combat terrorism must comply with our obligations under international law, in particular international human rights law, refugee law and humanitarian law.

Addressing conditions conducive to the spread of terrorism is of particular importance in preventing and combating terrorism. In this context special attention should be devoted to the issue of radicalisation and recruitment.

On 12 October 2001, the National Assembly adopted the Declaration on the Common Fight against Terrorism by which Slovenia joined the international community in its determination to unite in the fight against terrorism and calls for the implementation of concrete measures. The Government has adopted relevant decisions to engage individual ministries in specific activities in countering terrorism.

## LEGAL FRAMEWORK

### Penal law

The new Criminal Code that entered into force in 2008 contains a wide list of terrorism related offences. Article 108 defines the criminal offence of terrorism, Article 109 financing of terrorism, Article

110 instigation and public praise of terrorist acts and Article 111 recruitment and training for terrorism.

In addition to these amendments, Slovenia, as a member of the EU, also implements the EU legal instruments in the area of preventing and combating terrorism, through adoption of relevant measures at the national level.

Article 108 (Terrorism) stipulates:

(1) Whosoever with the intention to destroy or severely jeopardise the constitutional, social, or political foundations of the Republic of Slovenia or another country or international organisation, to arouse fright among the population or to force the Government of the Republic of Slovenia or another country or international organisation to perform or stop performing something, to perform or threaten to perform one or more of the following actions:

- assault on life or body or human rights and freedoms,
- taking hostages,
- considerable destruction of state or public buildings or representations of foreign states, transport system, infrastructure, information system, secured platforms in the continental shelf, public place or private property,
- hijacking of an aircraft, ship or public transport,
- production, possession, purchase, transport, supply or use of weapons, explosives, nuclear, biological or chemical weapons,
- research and development of nuclear, biological or chemical weapons,
- endangering security by releasing hazardous substances or causing fires, floods or explosions,
- disturbance or termination of the supply of water, electrical energy or other basic natural resources, which could endanger human life,

shall be sentenced to imprisonment for between three and fifteen years.

(2) Whosoever wants to achieve the purpose referred to in the previous paragraph by using or threatening to use nuclear or any other radioactive

substance or device, by damaging a nuclear facility by releasing radioactive substance or enabling its release, or who by threatening or using force demands nuclear or any other radioactive substance, device or facility shall be sentenced to imprisonment for up to fifteen years.

(3) Whosoever prepares or assists in the preparation of the criminal offences referred to in the previous paragraphs by illegally obtaining the required means to commit these criminal offences or, through blackmail, prepares someone else to participate in these criminal offences, or whosoever falsifies official or public documents required to commit these criminal offences shall be sentenced to imprisonment for between one and eight years.

(4) If the act under paragraphs 1 or 2 results in the death of one or more persons, the perpetrator shall be sentenced to imprisonment for between eight and fifteen years.

(5) If the perpetrator in committing the offences under paragraphs 1 or 2 of this Article intentionally takes the life of one or more persons, he shall be sentenced to imprisonment for at least fifteen years.

(6) If the act under paragraphs 1 or 2 of this Article was committed by a criminal organisation or group, which has the intention to commit criminal offences (hereinafter, terrorist organisation or group) specified in these paragraphs, it shall be sentenced to imprisonment for between eight and fifteen years.

(7) Whosoever participates in a terrorist organisation or group, which has the intention to commit criminal offences under paragraphs 1, 2, 4 or 5 of this Article, shall be sentenced to imprisonment for no more than eight years.

(8) Any person who establishes or leads the organisation referred to in the previous paragraph shall be sentenced with imprisonment for at least fifteen years.

Article 109 (Financing of Terrorist Activities) stipulates:

(1) Whosoever provides or collects money or property in order to partly or wholly finance the committing of offences under Article 108 of this Penal Code shall be sentenced to imprisonment for between one and ten years.

(2) Whosoever commits an offence from the preceding paragraph shall be subject to the same penalty even if the money or property provided or collected was not used for committing the criminal offences specified in the preceding paragraph.

(3) If an offence from the preceding paragraphs was committed within a terrorist organisation or group committing terrorist acts, the perpetrator shall be sentenced to imprisonment for between three and fifteen years.

(4) Money and property obtained under the preceding paragraphs shall be seized.

Article 110 (Incitement and Public Glorification of Terrorist Activities) stipulates:

(1) Whosoever incites the commission of criminal offences under Article 108 of this Penal Code and therefore propagates messages or makes them available to other persons in some other manner with the intention to promote terrorist criminal offences and thus causes danger that one or more such criminal offences will be committed, shall be sentenced to imprisonment for between one and ten years.

(2) Whosoever directly or indirectly publicly glorifies or advocates criminal offences under Article 108 or the criminal offence referred to in the preceding paragraph, with the purpose under preceding paragraph, by propagating messages or making them available to the public and therefore causes danger that one or more such criminal offences will be committed, shall be punished in the same manner.

(3) Prosecution for criminal offences under the preceding paragraphs shall be initiated with the permission of the Minister of Justice.

Article 111 (Recruitment and Training for Terrorist Activities) stipulates:

(1) Whoever recruits for terrorist activities by encouraging another person to commit criminal offences under Article 108 of this Penal code, or to participate in the order of such terrorist acts, or to join a terrorist organisation or group to commit terrorist acts, which this criminal organisation or group commits, shall be sentenced to imprisonment for between one and ten years.

(2) Whosoever trains others for criminal offences under Article 108 of this Penal Code by providing instructions to manufacture and use explosives, firearms or other weapons, harmful or hazardous substances, trains them for other special methods or in the use of technology to perform or participate in a terrorist act, shall be punished in the same manner.

The new Criminal Code also defines different forms of participation in criminal offences (including terrorism) and sets out conditions for the criminal

liability and punishment of accomplices. Article 38 of the Code criminalizes any person who intentionally supports another person in the commission of a criminal offence, as if that person had themselves committed that crime, though the sentence could be reduced, as the case may be.

Support in the commission of a criminal offence is deemed to be constituted, mainly, by the following: counselling or instructing the perpetrator on how to carry out the offence; providing the perpetrator with instruments of crime; the removal of obstacles to the commission of the crime; a priori promises to conceal the crime or any traces thereof; concealment of the perpetrator, instruments of crime or objects gained through the commission of the crime.

Article 108 of the new Criminal Code defines terrorism in a country-neutral manner. It applies to the territory of Slovenia as well as to the territory of other countries, as appropriate. According to this provision, terrorist acts can be committed against Slovenia, other states or international organizations.

Pursuant to Article 12, the new Criminal Code applies to the citizens of Slovenia even if they commit the criminal offence abroad. Article 13 of the new Criminal Code applies to a foreign citizen who commits a criminal offence against another country or against another foreign citizen abroad, where he is caught on the territory of Slovenia and not extradited to another country. Both articles form part of the general provisions and do not contain any explicit limitations to specific criminal offences. They can be applied in all relevant cases.

### **Procedural Rules**

Since Slovenia does not have special procedural legislation in the field of terrorism, it applies *mutatis mutandis* the provisions of the Code of Criminal Procedure.

#### **Secret surveillance measures**

Article 149a of the Criminal Procedure Code stipulates that if there are reasonable grounds for suspecting that a certain person has committed, is committing, is preparing to commit or is organising the commission of any of the criminal offences specified in the fourth paragraph of this article and if it is reasonable to conclude that police officers would be unable to uncover, prevent or prove this offence using other measures, or if these other measures would give rise to disproportionate difficulties, secret surveillance of this person may be ordered.

Secret surveillance may also, under exceptional circumstances, be ordered with respect to a person

who is not a suspect if it is reasonable to conclude that surveillance of this person will lead to the identification of a suspect from the preceding paragraph whose personal data is unknown. Secret surveillance shall be permitted by the state prosecutor on the basis of a written order and at the written request of the police, except in cases contained in the sixth paragraph of this article, for which an order must be obtained from the investigating judge. In exceptional cases, if written orders cannot be obtained in time and if a delay would present a risk, the state prosecutor may, at the verbal request of the police, allow the measure to commence on the basis of a verbal order.

Application of a measure may last for a maximum of two months; if due cause is adduced, it may be extended every two months by means of a written order.

Article 151 stipulates that the Police shall cease to apply the measure as soon as the reasons for which the measure was ordered are no longer in place. The police shall notify the body that ordered the measure of the cessation without delay and in writing. The police shall send the body that ordered the measure a monthly report on the progress of the measure and the information obtained. The Police must carry out secret surveillance in a way that encroaches in the least possible manner on the rights of persons who are not suspects.

Similar rules apply to the monitoring of electronic communications and to undercover operations.

#### **Witness protection**

The protection of witnesses is partially regulated by the Criminal Procedure Code; its article 240a determines the procedure to provide anonymity concerning the hearing before the investigating judge and at the main hearing. Its article 141a provides a legal basis for the drafting and enforcement of law regulating the protection of witnesses and persons regretting their acts during the Police procedure and during and after criminal proceedings, based on the comprehensive programmes of witness protection.

Article 141a of the Criminal Procedure Act determines that the condition to acquire protection within the protection programme is met when there are grounds for believing that the life of a witness or person regretting his/ her act (person who cooperates with the law enforcement or judicial authorities; so-called repentant or penitenti) and their immediate family are in danger as a consequence of their testimony.

## Other relevant legislation

### Suppressing terrorist financing

The Act on the Prevention of Money Laundering and Terrorist Financing was adopted in July 2007 and came into force as a whole at the end of January 2008. On its basis, several executive regulations were adopted. The new Law has replaced the previous Law on the Prevention of Money Laundering and harmonised national law with respect to the provisions of the revised anti-money laundering legal instruments, and has brought Slovenian legislation into line with the new standards on countering the financing of terrorism.

With the adoption of this Act, Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing was implemented in the legislation.

In 2007, Slovenia signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. The Convention is undergoing the process of ratification.

With the new Law the Office for Money Laundering Prevention gained competence in the area of detection and prevention of the financing of terrorism, which enables it to exchange information with other countries and to adopt agreements with its counterparts.

### Restrictive Measures

Slovenia does not have national lists of specific restrictive measures directed against certain persons and entities with a view to combating terrorism. The UN and EU lists are directly applicable.

According to the Council of the European Union Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (hereinafter "the EU regulation", which had been adopted for the implementation of resolution 1373(2001)) – which is directly applicable in Slovenia – funds, other financial assets and economic resources belonging to, or owned or held by natural or legal person, group or entity committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism or being owned or controlled by them or acting on behalf of or at the direction of them, shall be frozen and shall not be made available, directly or

indirectly, to, or for the benefit of those persons and entities. Under the EU Regulation, banks, other financial institutions, insurance companies, and other bodies and persons shall provide immediately any information which would facilitate compliance with the EU Regulation, such as accounts and amounts frozen, to the competent authorities of the Member States where they are resident or located, and through these competent authorities, to the Commission, and shall cooperate with the competent authorities in any verification of this information.

For the implementation of the EU Regulation and on the basis of the national Restrictive Measures Act, Slovenia adopted the Decree concerning restrictive measures for certain persons and entities with a view to combating terrorism, according to which persons should inform the MFA of attempts to act contrary to the prohibitions laid down in the EU Regulation, as well as of any measures taken for the implementation of the provisions of the EU Regulation.

### Regulation of charitable organizations

Two new laws, that govern the status of non-profit organizations, the Associations Act and the Religious Freedom Act, were adopted in 2006 and 2007 respectively. The Associations Act improves regulation and provides more legal rules as regards the establishment and operations of non-profit organizations. The Act explicitly forbids the establishment and the registration of associations whose purpose, objective or activities are aimed at violating the constitution or committing violent crimes. The Act stipulates the implementation of rules for the internal control of members and applies stricter regulation for the keeping of accounts.

The determination of such supervision is in accordance with the principles for regulating the status of non profit organisations proposed by the Council of Europe to fulfil the condition of equality between public and natural persons. The same applies with respect to responsibility for offences.

The Religious Freedom Act inter alia governs the legal status of religious communities and defines the registration requirements and procedures.

The implementation of these two new laws and a more consistent enforcement of the provisions regarding the control over the performance and financial operations of Associations, contributes to reducing possible abuses in this area for the purposes of money laundering and financing of terrorism.

## **INSTITUTIONAL FRAMEWORK**

The Special Interdepartmental Working Group on Combating Transnational Threats acts as the national counter-terrorism coordination body. It carries out threat assessments related to international terrorism. The Group includes the following institutions: Slovene Intelligence and Security Agency (conducts and co-ordinates the group's work), Ministry of the Interior, Police, Ministry of Justice, Ministry of Foreign Affairs, Intelligence and Security Service of the Ministry of Defence, General Staff of the Slovenian Armed Forces, Office for Money Laundering Prevention and Customs Administration .

The Slovene Intelligence and Security Agency (SISA) is a government agency which reports directly to the Prime Minister. In the field of counter-terrorism, it focuses in particular on collecting and analysing data and information on the preparations for and the commission of terrorist and other violent acts by organisations and groups, which might be carried out on the territory of Slovenia or by abusing its territory.

The SISA also forwards to the relevant ministers and other officials information relating to their field of work so that the competent authorities might propose or adopt certain measures. The SISA collects information and carries out analyses relating to their field of work according to the requirements of the National Security Council.

If the Agency, in carrying out its duties as set out in the SISA Act, establishes that grounds exist for suspecting that a certain person has committed, or is preparing or organizing, a criminal offence (in this case a terrorist activity or providing logistical support for terrorist purposes) in respect of which prosecution is commenced ex officio, it can notify the competent authorities. However, it has no executive authority itself. SISA co-operates in this area with the Ministry of the Interior and the Police, the Ministry of Defence and if necessary, also with the competent State Prosecutor's Office or other competent institutions (e.g. the Office for Money Laundering Prevention).

## **INTERNATIONAL CO-OPERATION**

### **United Nations**

Slovenia has signed 14 instruments out of 16 UN counter-terrorism conventions and protocols. It has ratified 13 of them. The Convention for the Suppression of Acts of Nuclear Terrorism (2005) is undergoing the process of ratification.

### **Council of Europe**

The list of instruments that have been signed or are currently being ratified is attached.

### **Mutual Legal Assistance**

Slovenia has ratified the relevant international instruments, which contain provisions regarding international legal aid in criminal matters. Their application is guaranteed on the basis of Article 8 of the Constitution, which stipulates that the ratified and published treaties are directly applicable.

The provisions regarding legal aid (petitions for legal aid and serving with a document), judgments passed by foreign courts, the surrendering of criminal prosecution and extradition are included in the Code of Criminal Procedure (Articles 514-537). In order to execute international legal aid in criminal matters, the provisions of Article 514 of the Code of Criminal Procedure stipulate that international legal aid in criminal matters is administered pursuant to the provisions of the Code of Criminal Procedure unless provided otherwise by international agreements. In accordance with the language of the text, the provision of international legal aid under the Code of Criminal Procedure is subsidiary to international agreements regulating this area. This means that international legal aid in criminal matters is administered according to the provisions of the mentioned Code only in those cases in which states have not concluded bilateral agreements or acceded to multilateral treaties. One of the important mechanisms for the efficient implementation of international legal aid is the possibility of direct communication between Slovene and foreign judicial authorities. The amended Code of Criminal Procedure stipulates that international legal aid in criminal matters is administered directly between national and foreign authorities which participate in criminal proceedings under the condition that reciprocity is applied or if so stipulated by an international agreement. Pursuant to the amended Code of Criminal Procedure, petitions for legal aid in emergency cases, under the condition of reciprocity, may be transmitted through the Ministry of the Interior (INTERPOL). When criminal acts relating to money laundering are in question, it may be transmitted through the competent authority for the prevention of money laundering.

### **Extradition**

In compliance with internal legislation the execution of a judgement of conviction passed by a foreign court is possible if so provided by an international agreement, or if reciprocity exists. A national court shall execute a judgement of conviction by pronouncing a sanction pursuant to criminal

legislation. Articles 521-536 of the Code of Criminal Procedure devotes a special chapter to extradition and foresees detailed solutions regarding the conditions for extradition as well as for the subsequent proceedings.

Article 521 stipulates that, unless provided otherwise in the international agreement, the extradition of accused and convicted persons is requested and carried out pursuant to the provisions of the Code. The Code is thus subsidiary to international agreements.

The Minister of Justice may reject extradition of a foreigner if he enjoys the right of asylum, if a military or political criminal offence is in question, or for other reasons, defined in international agreements.

| <b>Relevant Council of Europe conventions - Slovenia</b>  | <b>Signed</b> | <b>Ratified</b>           |
|---|---------------|---------------------------|
| European Convention on the Suppression of Terrorism (ETS 90)  | 28/03/2000    | 29/11/2000                |
| Amending Protocol (ETS 190)   | 15/07/2003    | 11/05/2004                |
| European Convention on Extradition (ETS 24)   | 31/03/1994    | 16/02/1995                |
| First Additional Protocol (ETS 86)  | 31/03/1994    | 16/02/1995                |
| Second Additional Protocol (ETS 98)   | 31/03/1994    | 16/02/1995                |
| European Convention on Mutual Assistance in Criminal Matters (ETS 30)   | 26/02/1999    | 19/07/2001                |
| First Additional Protocol (ETS 99)  | 04/03/1999    | 19/07/2001                |
| Second Additional Protocol (ETS 182)  | 07/04/2005    | -                         |
| European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)   | 24/06/2002    | -                         |
| 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)   | 23/11/1993    | 23/04/1998                |
| Convention on Cybercrime (ETS 185)  | 24/07/2002    | 08/09/2004                |
| Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)           | 26/02/2004    | 08/09/2004                |
| Council of Europe Convention on the Prevention of Terrorism (ETS 196)   | 19/05/2006    | 25/09/2009                |
| Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198) | 28/03/2007    | Planned for November 2009 |



