

ARMENIA

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NATIONAL POLICY

Armenia resolutely condemns terrorism and is fully committed to the international struggle against it.¹ With a full understanding of the necessity to combat this phenomenon, Armenia has offered unreserved assistance to the global coalition, signed the UN and Council of Europe anti-terrorism conventions, and offered military and strategic assistance. Armenia has opened its airspace and provided the necessary facilities for the anti-terrorism operations.

The Armenian authorities fully support the fight against terrorism while bearing in mind the importance and necessity to protect the rights, freedoms and legal interests of the citizens, society and state, as well as to ensure the existence of the legal mechanisms necessary for the stability of the economic system of the Republic of Armenia (RA) by setting up legal mechanisms to combat terrorism.

This field is regulated in Armenia by the Law on Combating Terrorism (adopted by the National Assembly of the Republic of Armenia in March 2005), several other laws and by international agreements.

LEGAL FRAMEWORK

Penal law

Article 217 of the Criminal Code of the Republic of Armenia defines the *corpus delicti* of "Terrorism".

"Terrorism, i.e. the commission of explosions, arson or actions causing significant human losses, or other actions inflicting significant damage to property or actions causing danger to the public, or the threat of such actions, if these actions were committed with the purpose of violating public security, intimidating the

population or exerting pressure on decision making by a state official, as well as for the purpose of fulfilling another demand of the perpetrator, is punished with imprisonment for a term of five to ten years".

The Article also contains provisions defining aggravating circumstances of such terrorist offences. The same action a) committed by several persons with prearranged agreement, b) using firearms (punished with imprisonment for a term of eight to twelve years), c) committed by an organised group, d) accompanied with the use of weapons of mass destruction, radioactive materials or with a threat to use other means of causing mass losses, e) causing death by negligence or other grave consequences (is punished with imprisonment for a term of ten to fifteen years).

The same Article contains a provision (a new amendment to the Criminal Code) on the financing of terrorism. According to this provision, any person who finances the execution of a terrorist act is subject to criminal liability. A term of three to seven years' imprisonment, with or without confiscation of property, is foreseen for such a crime.

According to Article 259 of the Criminal Code, making an obviously false statement about terrorism is also subject to criminal liability (punishable by a fine of 200 to 400 minimal salaries, or by one to two years' correctional labour, or by arrest for a term of one to three months, or by imprisonment for a term of up to three years).

Articles 388 and 389 relate to terrorism against a representative of a foreign country or international organisation and international terrorism.

Jurisdiction

Articles 14-17 of the Criminal Code refer to jurisdictional rules. As a basic principle, a person who has committed a crime is subject to criminal liability in accordance with the Code, irrespective of his/her status.

Article 14 provides that a crime is to be considered as having been committed on the territory of the Republic of Armenia if it was initiated, continued or completed on its territory or was committed in

¹ In its statement of 12 September 2001, the Government of Armenia strongly condemned the act of terror and stressed that the implications of the tragedy do not stop with the United States, but have an impact on the entire world community. Armenia considers this an attack not only against the US but against all peace-loving, democratic people everywhere.

On 8 October 2001, following the beginning of the counter-terrorism operation, the Ministry of Foreign Affairs of Armenia issued a statement, in which Armenia again reaffirmed its commitment to the coalition combating international terrorism, remaining convinced that international terrorism threatens not just individual states, but the entire civilised world. The struggle against terrorism must be firm and persistent.

collaboration with persons who have carried out a criminal activity on the territory of another state. Paragraph 3 of the same Article provides that in case a person has committed a crime on the territory of RA or of another state, he/she is liable if he/she was called to criminal liability on the RA territory and if no other provision is stipulated by international agreements to which the RA is a party.

In accordance with Article 15 of the Criminal Code, the citizens of the Republic of Armenia, as well as permanent residents and stateless persons, who have committed a crime outside the Republic of Armenia are subject to criminal liability if the act committed by them is recognised as a crime by the legislation of the state where it was committed and if they have not been convicted for the same crime in another state. Moreover these persons are subject to criminal liability in accordance with the Criminal Code for the commission of offences outside Armenia which are prescribed by Article 388 of the Criminal Code (terrorist acts against representatives of foreign states or international organisations), Article 389 (International terrorism) and by several other articles, regardless of the fact whether these offences are prescribed by the Criminal Code of the state where they were committed.

Paragraph 3 of Article 15 of the Criminal Code also stipulates liability for foreign citizens who have committed an offence outside the territory of the RA, if the offences are prescribed by international agreements to which RA is a party (i.e. acts relating to terrorism are prescribed by the International Convention for the Suppression of the Financing of Terrorism), or who have committed serious or extremely serious offences directed against the interests of the RA or against its citizens' rights and freedoms, (terrorism, as well as international terrorism are considered as serious or extremely serious offences by Articles 217, 388 and 389 of the Criminal Code).

It is important to note that, according to Paragraph 4 of Article 15, the above-mentioned persons are only subject to criminal liability under the Criminal Code, if they have not been convicted for the same offence in another country.

Procedural rules

There is no separate provision in the Criminal Procedure Code (CPC) of the Republic of Armenia regarding the procedure for prosecuting persons suspected of terrorist acts. The Code derives from the principle that legally criminal proceedings based on suspected terrorist criminal acts and proceedings based on other suspected criminal acts are equal.

Criminal procedure is based on democratic principles.² All subjects involved in criminal procedure are obliged to follow these principles.

The provisions of Chapter 54 of the Criminal Procedure Code regulate the procedures for the undertaking of legal activities by the Armenian authorities acting upon requests from foreign governments, and the transfer of their results to the requesting country, in accordance with international agreements to which the RA is a party. If a criminal prosecution is undertaken upon a request from the competent authorities of a state with which Armenia does not have an agreement on legal assistance in criminal matters within the scope of international agreements, such assistance is carried out on the basis of a mutual agreement between the RA and the given foreign state.

Investigation

With regard to the coordination of the executive bodies and the bodies undertaking criminal investigations, it should be mentioned that the investigative authorities within their competence (tax bodies, customs, etc.) are obliged, within ten days of the initiation of a criminal case, to conduct their investigations and transfer the case to an investigator from the Prosecutor's Office, Police or the National Security Agency which carry out the preliminary investigations of criminal cases (Articles 188 and 197 of the Criminal Procedure Code).

Inspections conducted by the tax authorities of the RA have not resulted in any non-profit organisations being suspected of involvement in the financing of terrorism. The supervision of religious, non-governmental and benevolent organisations by tax and customs authorities is carried out in the general order prescribed by law.

A regulation determining the customs value, developed on the basis of WTO principles, is used in Armenia to prevent the under or over-invoicing of exported or imported goods with maximum efficiency.³

² Legitimacy; Equality of all before the law; Respect for the rights, freedoms and dignity of individuals; Ensuring the right to legal assistance; Immunity of persons; Immunity of residence; Security of Property; Confidentiality of correspondence, telephone conversations, mail, telegraphs and other communications; Language of criminal proceedings; Public trial; Fair trial; Presumption of innocence; The right to defence of the suspect and the accused and guarantees for this right; Privilege against self-incrimination; Inadmissibility of repeated conviction and criminal prosecution for the same crime; Rehabilitation of the rights of persons who have suffered from judicial mistakes; Adversarial system of criminal proceedings; Administration of justice exclusively by the court; Independent assessment of evidence (Chapter 2, Articles 7-25 of the Criminal Procedure Code).

³ According to the Customs Code, all goods and means of transportation exported and imported through the Republic of Armenia customs borders must be declared (Article 128).

In order to prevent the manipulation of diamonds, the Republic of Armenia currently participates in the Kimberly Process for the control of international trade in diamonds and implements appropriate mechanisms.

Criminal investigations are launched if the Central Bank receives reports of money laundering or of the financing of terrorism.

Other relevant legislation

Preventing the Financing of Terrorism

1. The Law on the Fight against Legalizing the Illegal Income and Financing of Terrorism was adopted on 14 December 2004 by the National Assembly of the Republic of Armenia. The Law defines the concepts of "Laundering of illegal proceeds",⁴ "Financing of terrorism",⁵ "Reporting persons",⁶ the procedures for providing information to the Authorized body about suspicious transactions as well as other transactions linked to the laundering of illegal proceeds and the financing of terrorism, the identification of customers, keeping information and the internal supervision of bodies by reporting persons and the activities of the Central Bank as an Authorized body.
2. According to the new article on the Financing of Terrorism (Article 217, amendment to the Criminal Code adopted on 11 January 2005) any person who finances the execution of a terrorist act is subject to criminal liability.
3. On 17 December 2002, the Central Bank adopted Resolution 5 which provides the Central Bank with the authority to carry out inspections of banks and credit organisations aimed at revealing any cases associated with money laundering or financing of terrorism. This Regulation establishes procedures and conditions for mandatory measures and actions by banks and credit organisations to prevent the circulation of criminally obtained funds in banks

⁴ Concluding a deal with illegal proceeds, use of those proceeds for entrepreneurial activities, which aim at hiding or distorting the nature of those proceeds or the rights to them, their sources of origin, the location, movement or real belonging of those proceeds.

⁵ The act is stipulated by Article 217¹ of the Criminal Code of the Republic of Armenia.

⁶ Banks, credit organisations, persons dealing with dealership sales and purchase of currency and extending professional activities of currency sales and purchase, persons dealing with monetary transfers, organisations processing and clearing payment instruments and payment-settlement documents, persons specialized in securities markets, pawn-shops, persons registering asset rights, persons verifying transactions in cases and according to the procedure stipulated by law, persons organising games with prizes and lotteries, casinos, persons exercising asset management, persons providing insurance activities, persons performing investment activities, non-commercial organisations performing donation activities established by the legislation of the Republic of Armenia (including organisations offering grants).

and foreign bank branches functioning in the Republic of Armenia and the funding of terrorism.

4. In 2006, MONEYVAL evaluated the report presented by the Republic of Armenia on the progress achieved in the field of the fight against money laundering and terrorist financing. The Secretariat of MONEYVAL mentioned some points, which are not or are partially in accordance with international standards. These points are now on the agenda of the intergovernmental commission which drafts new laws in accordance with international standards.
5. According to the Law on the System of Payments and Payment Organisations (adopted in November 2004) the money remittance/transfer service can operate outside banks only once this has been licensed by the Central Bank.
6. The Civil Code (Article 926), the Criminal Procedure Code (Articles 232-234) and the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism provide the possibility to freeze effectively financial funds which belong to persons linked to a terrorist activity. To freeze assets, it is sufficient that a person appears to be a suspect or an accused person.

INSTITUTIONAL FRAMEWORK

The fight against terrorism is conducted by agencies which are authorized by the government. They act within the framework provided by the law. The following agencies are directly involved in combating terrorism:

- National Security Service;
- Police.

They have developed a plan of action aimed at the consolidation of security on aircraft, at airports and on vessels, which shall prevent the entry and movement of terrorists to and from the country. Appropriate measures are taken with regard to the physical security of hazardous facilities and facilities with special significance for the security of the state. In practice, such attempts are prevented by the Armenian authorities at the earliest possible stage due to strong co-operation between Armenian and foreign specialized agencies.

The **National Security Service**⁷ uses information received from its foreign counterparts or from Armenian state agencies to prevent persons connected to terrorist activities from entering Armenia. Such operations are, if necessary, conducted in collaboration with other agencies.

⁷ Regulated by the decision of the RA Government on 17 April 2003 on "Establishment of the Statute of the National Security Service adjunct to the Government of the Republic of Armenia".

The necessary operative-intelligence measures are taken in order to reveal the illicit stockpiling of arms, ammunition and explosive materials on Armenian territory. At the same time, measures are taken in order to reveal and prevent possible cases of smuggling -both import and export- of the above-mentioned items from and into the territory of Armenia.

In order to increase the effectiveness of the fight against terrorism, the Main Department on Combating Terrorism was established in the National Security Service, which coordinates efforts in that direction with other departments and agencies. The Border Guard of the Republic of Armenia is within the National Security Service.

The Department on Combating Organised Crime of the Police Service⁸ implements certain activities in the field of the fight against terrorism, within the framework of its functions and in co-operation with relevant ministries. These activities aim at preventing terrorist activities in their early stages and increasing antiterrorist legal awareness among the population.

The Internal Forces of the Republic of Armenia act within the structure of the Police Service.

The National Central Bureau of Interpol of Armenia, which operates under the Police, provides the law enforcement authorities with information available from the Interpol database.

Prosecutor's office

In cases involving the fight against terrorism and other manifestations of extremism (prescribed by Articles 217, 388 and 389 of the Criminal Code) the Prosecutor initiates the criminal prosecution on the basis of materials prepared by him/herself, petitions presented by courts and materials prepared by an inquiry body or an investigator.

The prosecutor: controls the legality of preliminary investigations and inquiries; supports the prosecution of criminal cases in court; represents state interests' before the court; appeals the acts, verdicts, sentences or decisions of the court; and supervises the implementation of punishment and other enforcement measures.

Court authorisation

According to Article 239 of the Criminal Procedure Code, if there are sufficient grounds to presume that

⁸ Regulated by the decision of the RA Government on 29 April 2004 on "Establishment of the Statute of the RA Police adjunct to the Government of the Republic of Armenia".

the mail or other means of communication sent or received by a suspected or accused person, might contain probative information, the investigator may make a justified request to the court to inspect the correspondence of such persons.

Measures for listening in to and recording conversations can be set up for a period of not more than six months. They must be terminated if they are no longer required, and in any case no later than the time of completion of the preliminary investigations. According to Part 2 of Article 197 of the CPC, preliminary investigations must be completed within a period of not more than two months, starting from the date of the decision to initiate the criminal case.

Besides the imposition of restrictions on the confidentiality of communications, telephone conversations or the interception of postal, telegraph and other communications, the court has other powers, such as:

- a) passing of judicial decisions connected with arrest and search warrants;
- b) passing of decisions connected with the preparation of cases for trial;
- c) the consideration of criminal cases in the first instance, or with regard to appeal, cassation;
- d) addressing a motion to the prosecutor on the institution of criminal prosecution in cases prescribed by the CPC;
- e) ordering the verdict to be executed, etc.

Protection of victims and witnesses

Chapter 12 of the Criminal Procedure Code regulates measures for the protection of victims, witnesses, accused persons, their legal representatives, lawyers and other persons participating in criminal proceedings (prosecutors, investigators, representatives of the investigation authority).

Where the authority carrying out the criminal investigation considers that the above-mentioned persons need to be protected from offences prescribed by the law, at the request of those persons or on its own initiative, it shall take the measures required to protect them (Article 98 of the Code). Moreover, protective measures are required to be applied, if the person involved in the criminal proceedings or his/her close relatives are threatened with physical violence or destruction of his/her property or if he/she is exposed to violence, due to his/her participation in the criminal proceedings. Article 99 describes the security measures to be provided for the protected person: providing the person or his/her relatives with personal protection; guarding the apartment or the property belonging to or used by the protected person; transfer of the protected person to a place where his/her security is

ensured; transfer of the detained person into a facility where his/her security is ensured.

Protective measures are terminated by a reasoned decision of the authority conducting the criminal investigation if there is no more necessity to maintain it. The protected person should be notified about the decision.

According to Article 24 of the Law "On the Status of the Judge" of the Republic of Armenia, the judge and the members of his/her family are under the special protection of the state. At the judge's request, the competent state authorities are obliged to take all the necessary measures to provide security for the judge and his/her family members.

In accordance with international agreements and the principle of reciprocity, the competent authorities of the Republic of Armenia can also take security measures upon requests received from the competent authorities of foreign states with respect to persons mentioned in the request.

Preventing the Financing of Terrorism

The Central Bank is the Authorized body in charge of the fight against money laundering and the financing of terrorism. It is tasked with the collection and storing of information, the analysis of data, exchanges of information and its submission to the competent state bodies, as well as exchanges of such information with international organisations and, in the cases stipulated by international treaties to which the Republic of Armenia has adhered, also to the competent bodies of other countries. The Authorized body performs the mandatory supervision of the process of information submission.

With the objective of organising the fight against money laundering and the financing of terrorism, and of collecting and coordinating the information stipulated by the Law on the Fight Against Legalisation of the Illegal Income and Financing of Terrorism, a structural sub-division, the Financial Observations Centre (Statute approved on 11 March 2005), is established in the Central Bank. All the financial institutions in Armenia have undergone at least one complete audit by the Financial Observations Centre.

The Central Bank has circulated among all the banks operating in Armenia lists of the names of individuals associated with terrorist organisations and has instructed them to freeze any accounts belonging to those individuals or organisations and to stop all their transactions, and immediately submit the relevant information to the Central Bank.

The Central Bank officers, as well as judges, prosecutors, persons in charge from the Police and National Security Service and officials from competent state bodies, have participated in various courses, training programmes and seminars organised in Yerevan and abroad. During those seminars experts from the Council of Europe and specialists from other countries have shared information and data on methods and techniques for combating terrorism.

INTERNATIONAL CO-OPERATION

Armenia's integration in security co-operation linked to international institutions and its active involvement in those institutions are on the agenda of the foreign policy of the Republic of Armenia.

Armenia has not concluded any bilateral treaties or agreements on counter-terrorism. However, Armenia has signed bilateral treaties on co-operation on criminal issues, including issues relating to terrorism and organised crime, with Romania, Bulgaria, United States and Lithuania.

Armenia has concluded bilateral agreements on assistance in legal matters with Greece, Romania, Bulgaria and is a party to the European Conventions on Mutual Assistance in Criminal Matters, on the Transfer of Sentenced Persons and on Extradition.

If the state where a person has committed a terrorist act requests **extradition**, Armenia will extradite that person in accordance with the international agreements to which it is a party, except for the cases provided by the agreements, or where a person who has committed a terrorist act in a foreign state is a citizen of the Republic of Armenia. It is obvious that if the terrorist act is committed in the territory of the Republic of Armenia, the person who committed the crime, regardless of his/her citizenship, is subject to criminal liability within the territory of Armenia and in the order prescribed by law.

UN

Armenia attaches great importance to its co-operation with the UN Security Council Committee established pursuant to Resolution 1373 (2001) concerning counter-terrorism and presents regular reports on measures taken at national level.⁹

Armenia has signed and ratified the 12 international conventions developed under the auspices of the United Nations and its specialised agencies (the

⁹ The CTC report presented by Armenia can be found at http://www.un.org/Docs/sc/committees/1373/submitted_reports.html

General Assembly, the International Civil Aviation Organization (ICAO) and the International Atomic Energy Agency (IAEA)).

On 15 September 2005 Armenia signed the thirteenth instrument, the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the General Assembly, and intends to ratify the convention as soon as possible.

The Council of Europe

Armenia is actively committed to the fight against terrorism and is a party to the relevant legal instruments adopted within the framework of the Council of Europe (see below).

Armenia has signed and ratified the European Convention on the Suppression of Terrorism and its Amending Protocol. It has signed the Convention on the Prevention of Terrorism and is going to ratify it as soon as possible.

NATO

The issue of combating terrorism has also been included in the Armenia-NATO/EAPC (Euro-Atlantic Partnership Council) co-operation. In particular, an appropriate system of proceedings has been envisaged in order to strengthen the measures for the fight against terrorism in the Planning and Review Process as well as in the Individual Partnership Action Plan between Armenia and NATO.

CIS

The National Security Service Bodies co-operate actively within the framework of the CIS Member States Antiterrorism Centre. In September 2006, as follow-up to the Regulation on the organisation and realisation of joint antiterrorism activities in the territories of CIS Member States (signed on 7 October 2002, ratified on 8 December 2004)

Armenia hosted the "Atom-Antiterror-2006" training sessions.

Armenia has made a significant contribution to the creation of the Anti-Terrorism Centre of the CIS participating states and its database.

1. Agreement on Co-operation in the Field of Protection of Civil Aviation from Illegal Interference (signed on 26 May 1995, ratified on 14 December 1995).
2. Treaty on Co-operation among CIS Member States in Combating Terrorism (signed on 4 June 1995, ratified on 28 December 2001).
3. Agreement on Co-operation between the Ministries of the Interior of the CIS Member States for the Suppression of Terrorism (signed on 4 June 1995, ratified on 28 December 2001).
4. Treaty on Co-operation among CIS Member States in Combating Crime (signed on 25 November 1998, ratified 19 April 2001).
5. Regulation on the Organisation and Realisation of Joint Antiterrorism Events on the Territories of CIS Member States (signed on 7 October 2002, ratified on 8 December 2004).

Collective Security Treaty Organization

By the decision of the Committee of Secretaries of the Security Councils of the member states of the Collective Security Treaty Organization, a Working Group on the issue of the fight against terrorism and other manifestations of extremism was set up during the session held on 30 November 2004 in Yerevan.

BSEC

On 3 December 2004, Armenia signed the Additional Protocol on Combating Terrorism to the Agreement among the Governments of the Black Sea Economic Cooperation Participating States on Combating Crime, in Particular in its Organised forms; it is in the process of ratifying it.

Relevant Council of Europe conventions – Armenia	Signed	Ratified
European Convention on the Suppression of Terrorism (ETS 90)	08/11/01	23/03/04
Amending Protocol (ETS 190)	15/05/03	23/03/04
European Convention on Extradition (ETS 24)	11/05/01	25/01/02
First Additional Protocol (ETS 86)	08/11/01	18/12/03
Second Additional Protocol (ETS 98)	08/11/01	18/12/03
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	11/05/01	25/01/02
First Additional Protocol (ETS 99)	08/11/01	23/03/04
Second Additional Protocol (ETS 182)	-	-
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	08/11/01	17/12/04
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	08/11/01	-
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	11/05/01	24/11/03
Convention on Cybercrime (ETS 185)	23/11/01	12/10/06
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	28/01/03	12/10/06
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	17/11/05	-
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	17/11/05	-

