



ICELAND

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NATIONAL POLICY

The threat posed by international and organised crime has grown rapidly in recent years, and the threat of terrorism has become clearly visible, as is attested by recent terrorist acts worldwide. It is vital that the police who are responsible for ensuring the security of the state and its citizens gather and process information, identifying the risks associated with drug offences, organised crime, terrorist acts and other activities that have a bearing on state security. The investigative methods employed by the National Security Unit and the legal basis on which it operates are laid down in the Code of Criminal Procedure.

LEGAL FRAMEWORK

Penal law

By Act No. 99/2002 the General Penal Code was amended in order to fulfil the obligations of Iceland under the International Convention for the Suppression of Terrorist Bombings of 15 December 1997 and the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999. The purpose of the amendment was also to enact into the Penal Code the substantive part of Security Council Resolution No. 1373/2001. With the amendment three provisions relating to the financing of terrorism, i.e. Articles 100 (a), 100 (b) and 100 (c), were added to the General Penal Code.

Under Article 100 (a) terrorism is criminalized, subject to a penalty of a maximum of life in prison. In order to fall under the scope of the Article, the purpose of acts committed must be at least one of the following:

- To cause considerable fear among the public;
- To illegally force the Icelandic authorities, foreign authorities or international organisations to take action or to remain passive.
- To weaken or cause harm to the constitutional, political, economic or social foundations of any state or international organisation.

The acts in question must involve at least one of the following crimes, which are subject to a penalty according to the General Penal Code:

- Manslaughter;
- Assault;
- Deprivation of liberties;
- Threat to traffic safety, causing disorder to public transport or causing considerable damage to property, and be committed in such way that they threaten human life and could cause considerable damage to property;
- Hijacking of aircraft or causing a threat to people in international airports;
- Arson, causing explosions, circulation of dangerous gases, causing of flooding, shipwreck, accident or failure of trains, cars or aircraft, general shortage of drinking water or contaminating water sources or water pipes, or poisoning or placing dangerous substances in merchandise or objects for public use.

It is a further condition that the acts, considering their nature and the circumstances when and where they were committed, must have the potential to seriously harm a state or international organisation. Under this Article the threat to commit terrorist acts is subject to the same penalty.

Article 100 (b) criminalizes the financing of an act of terrorism and terrorist groups; it is mainly based on paragraphs 1-3 of Article 1 of Security Council Resolution 1373. According to the Article, it is a criminal activity to support, directly or indirectly, by granting money or other financial means to a person, association or group of people that aim to commit acts of terrorism as defined in Article 100 (a). Furthermore, it is unlawful to provide or collect capital for such a person, association or group of people or make capital available to them in any other way. The penalty for committing these kinds of acts is a maximum of ten years' imprisonment.

Article 100 (c) addresses support to terrorist groups. The Article makes it subject to penalty to assist, by words or actions, persuasion, motivation or by some other means to support the criminal acts described in Articles 100 (a) and 100 (b) or to express support for the policy of an association or group which has committed the crimes described in Articles 100 (a) and 100 (b), where the activities or policy imply that such crimes will be committed. The maximum penalty for such crimes is six years' imprisonment.

Confiscation

Article 69 of the General Penal Code provides for the confiscation, on the basis of a judgment, of certain objects that, *inter alia*, originate from an offence or have been used for its commission, except where they are in the possession of a person not implicated in the offence in any manner, and objects which may be assumed to be intended for a criminal purpose, provided this is deemed necessary having regard for judicial security.

The articles referred to above are currently under review.

Procedural rules

The legal procedure and investigative methods employed in criminal cases in Iceland are subject to the Code of Criminal Procedure, No. 19/1991. Since no special statutes or provisions have been enacted to cover the procedure for the investigation, prosecution or judicial handling of terrorist acts, the Code of Criminal Procedure applies in such cases. Therefore, a person suspected of or prosecuted for a terrorist offence enjoys the same rights as a person charged with another serious crime, including the right to a public defence counsel.

Jurisdiction

The rules on jurisdiction are set forth in Section I of the General Penal Code. As a basic principle, all criminal acts committed on Icelandic territory are punishable according to Icelandic law. Section I, Articles 5 and 6, of the General Penal Code contains provisions on the applicability of Icelandic law to international offences. Icelandic penal jurisdiction exists for terrorist offences and attempts at such offences committed outside Iceland. This means that an Icelandic court is authorised to judge offences under Icelandic legislation.

Coercive measures in criminal procedures.

Seizure

The provisions on seizure in Section X of the Code of Criminal Procedure enable the police to seize items if they are reasonably believed to be of evidential value in a criminal case, if they have been obtained by criminal means, or if it is reasonably believed that they may become subject to confiscation.¹

Surveillance

Articles 86 to 88 in Section X of the Code of Criminal Procedure enable the police for the purposes of an investigation, *inter alia*, to obtain information concerning telephone conversations, order public authorities to provide for monitoring or recording of telephone conversations, record telephone

conversations, record images or take photographs or motion pictures without the knowledge of the persons concerned.

Search of premises

The provisions on the search of premises in Section XI of the Code of Criminal Procedure enable the police to search places where they would otherwise not be able to for the purposes of a criminal investigation.²

Detention

The provisions on detention are set forth in Section XIII of the Code of Criminal Procedure. The general rule is that a suspect may only be remanded in custody if there is a reasonable suspicion that he/she has committed an offence which is punishable by imprisonment. In addition, one or more of the following must apply:

- a) there must be reason to believe that he or she will impede the criminal investigation by removing evidence, disposing of items or influencing witnesses or accomplices,
- b) there must be reason to believe that he or she will flee or otherwise evade legal proceedings or punishment,
- c) there must be reason to believe that he or she will continue his or her criminal activity,
- d) there must be reason to believe that detention is necessary to protect others from assault by the suspect or the suspect from assault by, or influence exerted by, others.

Persons may also be remanded in custody even when the conditions in items a-d above are not met if there is a strong suspicion that they have committed offences which are punishable by 10 years' imprisonment, providing that the offences involved are of such a nature as to make the application of custody necessary from the point of view of the public interest.

Act No. 19/1991 is currently under review.

Other relevant legislation.

Act No. 5/1969 regarding the Implementation of United Nations Security Council Resolutions

On the basis of Act No. 5/1969 regarding the Implementation of United Nations Security Council Resolutions, the Icelandic Government decided to implement Security Council Resolution 1373 by a Public Announcement, No. 867/2001, on 14 November 2001.

Public Announcement No 867/2001 prohibits Icelandic citizens, Icelandic entities, foreigners who reside in Iceland and foreign entities engaged in

¹ See Articles 78 to 82 of the Code of Criminal Procedure.

² See Articles 89 and 90 of the Code of Criminal Procedure.

activities in Iceland from collecting money or providing other kinds of financial means to those who engage in terrorist acts which are criminalized under certain sections of the General Penal Code. The Announcement also prohibits those persons and entities mentioned above from become bailees for terrorists or give them any kind of financial advice. Bailees are also prohibited from handing over to terrorists money or other financial means.

Furthermore, according to the Announcement it is obligatory for natural or legal persons who are authorized to provide financial services to the public to report suspicious transactions that might be linked to terrorist activities to the National Commissioner of the Icelandic Police. The Announcement provides that persons and legal persons authorized to provide financial services to the public are under a legal obligation to report suspicious transactions that might be linked to terrorists. According to Icelandic law only authorized persons or legal persons can undertake transactions of money and other financial means for the public. Transactions in this respect apply to a wide range of activities and not only to traditional banking services. To disregard or act against the provisions of the Public Announcement is subject to a maximum penalty of two years' imprisonment.

Act No. 5/1969 is currently under review.

Act No. 64/2006 on measures against money laundering and terrorist financing.

The aim of this Act is to prevent money laundering and the financing of terrorist activities by obliging persons who engage in activities which may be used as a means of money laundering to know the identity of their customers and their activities, and to inform the competent authorities if they become aware of unlawful activities of this type. Criminal sanctions are available for violations of the act. The act was passed to take account of Council Directive No. 2005/60/EC.

Act No. 64/2006 is currently under review.

INSTITUTIONAL FRAMEWORK

Investigation and risk assessment.

At the Office of the National Commissioner of Police there is an Investigation Department and a National Security Unit; these are responsible for investigating acts of treason and offences against the constitutional structure of the State and its senior officials, and for assessing the risk of terrorist activities and threats posed by organised crime or other activities that may undermine the security of the State.

INTERNATIONAL CO-OPERATION

United Nations

Iceland supports the key role of the United Nations in the fight against global terrorism and is fully committed to co-operating with the United Nations and its member states in that respect. Iceland has signed or acceded to all of the thirteen relevant UN instruments.

Council of Europe

Iceland is a committed member of the Council of Europe. Below is a list of the instruments drawn up in the Council of Europe that Iceland has signed and ratified.

North Atlantic Treaty Organisation (NATO)

Iceland has been an active member of NATO since its establishment in 1949.

Financial Action Task Force against Money Laundering (FATF)

Iceland is a member of FATF and takes an active role in its work.

Relevant Council of Europe conventions – Iceland	Signed	Ratified
European Convention on the Suppression of Terrorism (ETS 90)	27/11/77	11/7/80
Amending Protocol (ETS 190)	15/5/03	
European Convention on Extradition (ETS 24)	27/9/82	20/6/84
First Additional Protocol (ETS 86)	27/9/82	20/6/84
Second Additional Protocol (ETS 98)	27/9/82	20/6/84
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	27/9/82	20/6/84
First Additional Protocol (ETS 99)	27/9/82	20/6/84
Second Additional Protocol (ETS 182)	8/11/01	
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	19/9/89	
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	30/11/01	
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	8/11/90	21/10/97
Convention on Cybercrime (ETS 185)	30/11/01	29/1/07
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	9/10/03	
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	16/5/05	
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	16/5/05	