



MJU-25 (2003) 9

25th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE

Sofia (9-10 October 2003)

- **INTERNATIONAL CO-OPERATION IN THE
FIGHT AGAINST INTERNATIONAL
TERRORISM AND IMPLEMENTATION OF
THE RELEVANT INSTRUMENTS OF THE
COUNCIL OF EUROPE**

- **THE RESPONSE OF THE JUSTICE SYSTEM
- CIVIL AND CRIMINAL - TO TERRORISM**

Report presented by the Minister of Justice of

SLOVENIA

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I. Introduction

Slovenia most severely condemns any form of terrorism. Slovenia has been actively participating in the international anti-terrorist coalition since the very beginning, and in international fora supports and aligns itself with the initiatives and measures in the fight against terrorism. By engaging in and implementing the measures adopted by the United Nations, European Union, NATO, the Organisation for Security and Cooperation in Europe, the Council of Europe and Central, Eastern and South-Eastern European countries, Slovenia clearly and resolutely places itself on the side of antiterrorist alliance.

In the fight against terrorism, action at two levels is necessary, i.e. within international organisations at the global and regional levels and at the national level in the form of relevant legislation and its efficacious implementation. The fight against terrorism comprises international and national measures (political, military, financial, legislative, police, administrative, etc.), which must be closely coordinated.

Slovenia is a signatory to several bilateral and multilateral agreements or conventions relating to the fight against terrorism. These legally binding agreements define the obligations, which Slovenia carries out with the relevant legislative and practical measures. In addition to those, Slovenia has been providing humanitarian and logistic aid, thus joining the endeavours of the international community towards reducing the consequences of anti-terrorist action for the people of Afghanistan and the wider region.

Hereby we give an illustration of the concrete measures and legislative procedures the Republic of Slovenia is implementing in the fight against terrorism. These measures are carried out in compliance with the assumed international obligations and on the basis of applicable legislation, as well as in accordance with the decisions and guidelines of the Government of the Republic of Slovenia and the National Assembly of the Republic of Slovenia.

II. Legislation on the Prevention, Prosecution and Punishment of Acts of Terrorism and its Financing

The Slovene Penal Code (Official Gazette of the Republic of Slovenia, Nos. 63/94, 70/94 and 23/99) incriminates internal terrorism in Article 355 and international terrorism in Article 388. In addition to the mentioned criminal offences, the Penal Code also contains the incriminations of other criminal offences, defined in international documents in the field of terrorism. Some examples: Article 144 defines the crime of kidnapping, Article 330 hijacking, Article 353 violence against the highest representatives of the State, Article 389 endangering of persons under international protection and Article 390 taking of hostages.

The Republic of Slovenia has signed the International Convention on the Suppression of the Financing of Terrorism in November 2001. While drafting the analysis of the necessary amendments to the Slovene legislation in order to ratify it, we noted that the

convention requests the explicit incrimination of the financing of terrorism in national legislation. The financing of terrorism could be prosecuted in compliance with general provisions of the Penal Code on participation in criminal offence. Article 27 stipulates that any person who intentionally supports another person in the committing of a criminal offence shall be punished as if he himself had committed it or his sentence shall be reduced, as the case may be. In compliance with the second paragraph, support in the committing of a criminal offence shall be deemed to be constituted also by providing the perpetrator with the instruments of crime. In accordance with described valid regulation in the Penal Code it is not possible to prosecute a person, who collects or assures financial support with the intention to be used for act of terrorism, which is not carried out later. Since Paragraph 3 of Article 2 of the International Convention on the Suppression of the Financing of Terrorism explicitly determines that for the committing of criminal offence of financing of terrorism it is not relevant whether the act of terrorism was actually committed, we will propose the new criminal offence of financing of terrorism to be added to the Penal Code.

The Slovene criminal legislation adequately covers the provisions of the first and second paragraph of Article 8 of the International Convention on the Suppression of the Financing of Terrorism regarding the seizure of any funds, used or allocated for the purpose of committing criminal offences. This also applies to Articles 9, 10 and 11 of the Convention.

The Republic of Slovenia ratified all important international documents, which contain provisions regarding international legal aid in criminal matters. Their direct application is guaranteed on the basis of Article 8 of the Constitution of the Republic of Slovenia, which stipulates that the ratified and published treaties are applied directly. The provisions regarding legal aid (petitions for legal aid and serving with a document), judgements passed by foreign courts, surrendering criminal prosecution and extradition are included in the Criminal Procedure Act (Articles 514-537).

With regard to domestic law, as the second source in the area of international legal aid, the provisions of the Criminal Procedure Act are clear, i.e. domestic law has a subsidiary character in relation to an international agreement.

In order to execute international legal aid in criminal matters, the provision of Article 514 of the Criminal Procedure Act is important, which stipulates that international legal aid in criminal matters is administered pursuant to the provisions of the Criminal Procedure Act unless provided otherwise by international agreements. In accordance with the diction of the provisions it is clear that providing international legal aid under the provisions of the Criminal Procedure Act is of subsidiary character in relation to international agreements regulating this area. This means that international legal aid in criminal matters is administered according to the provisions of the mentioned Criminal Procedure Act 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 a possibility of direct communication between Slovene and foreign judiciary authorities. The amended Criminal Procedure Act 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.

The Republic of Slovenia adopted the first Prevention of Money Laundering Act in 1995. Slovenia was actually one of the first countries in Central and Eastern Europe, which included in its legal system the necessary instruments for the fight against money laundering. The Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crimes was ratified in 1997. All legislation is in compliance with 40 Recommendations of the Financial Action Task Force (FATF) and on the EU Council Directive on prevention of the use of the financial system for the purpose of money laundering. On 25 October 2001 a new Money Laundering Act entered into force, which is in full compliance with all international standards and represents a new quality in the field of the fight against money laundering in the Republic of Slovenia. The applicable legislation is a sound legal basis for the implementation of measures in the field of preventing the financing of terrorism, and enables immediate implementation of FATF conclusions, adopted in Washington on 31 October 2001. It is also important that Slovene Penal Code determines the so called "all crime model" regarding the money laundering, what means that every criminal offence from the Penal Code can be predicate offence for money laundering.

On the basis of the Restricted Measures Act the Government of the Republic of Slovenia adopted the Decree on the Measures against the Taliban, in which legal and natural persons from the list of the UN Security Council are stated. The Office of the Republic of Slovenia for Money Laundering Prevention duly verifies all lists received from the UN Security Council in their data basis, as well as in the entire financial system of the Republic of Slovenia. The Office established that no legal or natural person availed itself of the funds in the Republic of Slovenia. In addition, all banks are bound to inform the Office of any financial transactions of legal and natural persons, stated in the above-mentioned lists.

