

LATVIA

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NATIONAL POLICY

Latvia strongly condemns terrorism in all its forms and manifestations considering that it severely endangers the lawful interests of States and people around the world. Nevertheless, Latvia believes that the fight against terrorism shall be carried out in full respect of the Rule of Law and Human Rights Law.

As a framework for further legislation the Latvian Parliament has adopted a political strategy document - the National Security Concept, and on executive level the Government has adopted the National Counterterrorism Plan. Those policy planning documents set out the particular tasks that shall be carried out by national authorities involved in the prevention and suppression of terrorism to decrease the potential endangerment of terrorism or terrorist offences.

With due regard to the above mentioned, Latvia pays particular attention to decreasing the risks of cybercrime. The need to strengthen the cross-border cooperation has been stressed by the previously mentioned policy planning documents. Intensive cooperation among the national authorities of different states is regularly taking place in order to increase the cyber safety.

For the time being, there have not been detected any terrorist activities within the Latvian territory. However, the Latvian Government while adopting the Latvian Counterterrorism Policy in order to ensure the appropriate preventive measures in place, pays due regard to events taking place abroad to avoid the potential endangerment of national interests. In particular, Latvia as a Member State of the EU complies with its requirements regarding the fight against terrorism. Furthermore, Latvia continues to work to improve the security of the objects and infrastructure that might become a target for potential terrorist attacks. Moreover, Latvia takes a close look to activities which may lead to terrorist activities in neighbouring countries.

Furthermore, Latvia believes that the best way to decrease terrorist threats is to have an appropriate cooperation among all involved international actors.

LEGAL FRAMEWORK

As it has been stated above, Latvia pays particular attention to the right balance between the legal framework of the suppression of terrorism and the observation of the Human Rights. Taking into account that Latvian legislation does not have a specific legal act on suppression of terrorism, the common Criminal Law and Criminal Procedural Law legislation applies.

Criminal law

Article 1 of Latvian Criminal Law provides that an offence can be considered as criminal if it is penalised by the Latvian Criminal Law.

In accordance with Article 88 of the Latvian Criminal Law terrorism is defined as the use of explosives, the use of fire, the use of nuclear, chemical, biological, bacteriological, toxic or other weapons of mass destruction, mass poisoning, spreading of epidemics and epizootic diseases, kidnapping of persons, taking of hostages, hijacking of air, land or sea means of transport or other activities if they have been committed with the intent to intimidate the civil population or with the intent to force the State or an international organisation to take or refrain from an action, or to cause a harm to the interests of the State, to its inhabitants or to the international organisation.

As follows, in order to prosecute a person under this Article it is important to establish the particular intent of the person to compel the State or an international organisation to comply with the terrorists' request or the State or its inhabitants' lawful interests would be endangered. The terrorism is classified as a severe crime for which the penalty can be imposed from eight up to twenty years of deprivation of liberty with or without the confiscation of property. Nevertheless, if established by the Court that a person committed an aggravated terrorist crime, the life sentence can be imposed. If the person is sentenced for terrorism, after serving the sentence he/she must remain under the supervision of Probation Service for up to 3 years.

To establish that an aggravated terrorist crime has been committed, the Court must find out whether:

- a) terrorists have launched an attack to physical objects, automated data processing systems, electronic networks, as well as other objects located in the territory or the continental shelf of the State with intent to diminish the security of the State;
- b) terrorism is committed by an organised group.

Under the Criminal Law the establishment and the leading of a terrorist group is also penalised.

Furthermore, the Criminal Law sets out a penalty for financing of terrorism, incitement to terrorism, threat of terrorism and also for recruitment or training of persons to enable them to commit terrorism. Taking into due consideration that those offences form separate crimes, they can be prosecuted even if no actual terrorist attack is committed.

Procedural rules

The investigation and prosecution of terrorism is based on the criminal procedure principles and provisions incorporated into the Criminal Procedure Law. There are no specific procedural rules applicable to terrorism, therefore, all methods of investigation, prescribed by this law, can be used:

- interrogation;
- confrontation;
- examination and inspection;
- search;
- identification of alleged person.

In accordance with the Latvian legislation, if the crime committed is especially severe, the provisions of the Investigatory Operations Law can be applied. When investigating the financing of terrorism, the regulation regarding the illegally acquired property shall apply. As provided by the Article 355 of the Criminal Procedure Law, all belongings, property and financial assets belonging to a person alleged for commitment of terrorism shall be considered as illegally acquired, if not proven otherwise. Taking into account the danger arising from terrorism, the assets belonging to persons living with him/her in the same household shall also be considered as illegally acquired, if not proven otherwise. Special investigation techniques are set out by the Law on the Prevention of Money Laundering and Terrorism Financing.

If the endangerment caused by terrorists in a particular case meets the required endangerment provided for in the Investigatory Operations Law, it shall be investigated in accordance with the provisions of the said Law. All investigatory activities

and the methods of their performance shall be carried out strictly in accordance with the law and only with the approval of a judge. Permission to perform such investigatory operation activities may be given for a period of up to three months. However, if there is a well-founded necessity, the application may be prolonged only by a decision of a judge and 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, with the permission from the prosecutor, to take procedural measures to preclude the commission of a crime, if immediate action is essential to prevent threats to the State or to its population. Nevertheless, to ensure the legality of such an action, the permission from the judge shall be obtained immediately afterwards, within a period of 72 hours. Otherwise the investigatory operations activities shall be discontinued and all obtained information shall be eliminated. However, with a due regard to the principle of legality, the investigation shall be terminated if fifteen years have passed since the crime was committed.

Other relevant legislation

There are specific laws setting out the modus operandi of the authorities and persons involved in the suppression of terrorism.

- The procedure of the protection and status of person involved in the criminal proceedings is determined by the Special Protection of Persons Law.
- The suppression of the financing of terrorism is set out by the Law on the Prevention of Money Laundering and Terrorism Financing.
- A decision to declare a terrorism threat shall be based on the National Security Law and the Regulation of the Cabinet of Ministers "Procedures for Declaration of Terrorism Threat Levels".
- In addition to that, the rules regarding the prevention of terrorism are contained in the Law on Circulation of Goods of Strategic Significance.
- With regard to critical infrastructure, the Regulation of the Cabinet of Ministers "Procedures for the Identification of Critical Infrastructures, Including European Critical Infrastructures and Planning and Implementation of Security Measures" is applicable.

In addition, the following planning documents set out the measures that shall be taken to overcome the threats of terrorism or consequences thereof:

- The National Counterterrorism Plan;
- The Action Plan in the case of seizure or endangerment of air craft;
- The Action Plan in the case of endangerment of the ports or ports' facilities;
- The Action Plan in the case of endangerment of the land objects;
- The instruction of the measures that should be taken by authorities in the case of finding an unknown object or matter, if it can possibly be explosive, radioactive, chemical or biological weapon and also if some elements of terrorist offence is detected.

In order to ensure the nuclear safety, Latvia has adopted particular national legislation on security of nuclear and radiological materials. Latvia along with other EU Member States employs strict export and transit controls and scrutinises also every transaction with states being under international sanction regimes and arms embargoes conditions with the aim to make sure that nuclear and radiological materials will not fall into the wrong hands and be used for malicious purposes. Latvia ensures that the efficiency of its national nuclear security system is being constantly upgraded, including the physical protection of nuclear and radiological materials and their related facilities, detection and action taking measures as well as expert training. In this regard, the safe and secure removal (by 2008) of all highly enriched uranium from the Salaspils Research Reactor in Latvia is an excellent example.

Measures related to the protection of victims and witnesses in the case of terrorism

The Criminal Procedure Law does not provide a particular protection of terrorism victims or witnesses. Therefore, the common rules of witness protection must be applied. The Criminal Procedure Law provides that the Procedural Compulsory Measures can be applied to an alleged offender if there is evidence based information that the alleged offender will continue his/her criminal activities or is going to impede the course to justice. The Criminal Procedure Law sets out several Procedural Compulsory Measures, inter alia, most of them applied to persons alleged for severe crimes and being detained till trial. In accordance with the provisions of Criminal Procedure Law and the Law on Special Protection of Persons, a person who is a victim or a witness giving evidence in trial for severe crimes or a person whose endangerment could affect such person, can become a subject of the witness protection.

The decision to apply the witness protection is based on evidence showing that the life, health or property of a person can be endangered due to his/her testimony.

INSTITUTIONAL FRAMEWORK

The institutions involved in the implementation of preventive measures exceed the number of authorities dealing with the operative measures, where mainly the police forces are involved. The tasks and authorities involved depend on the nature of the threats. There are three national security authorities which perform tasks prescribed by State Security Institutions Law.

The main authority investigating acts of terrorism is the Security Police. Moreover, the Security Police is 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 in charge of 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 General's Office.

Other authorities, partially dealing with matters of the suppression of terrorism are:

- The authorities subordinated to the Ministry of Interior, such as:
 - The State Police;
 - The State Border Guard;
 - The State Fire Fighter and Rescue Service;
 - Office of Citizenship and Migration Affairs;
- The Office of the Prevention of Laundering of Proceeds Derived from Criminal Activity (Control Service);
- The Emergency Service;
- The National Armed Forces;
- The State Joint Stock Company 'Latvijas Gaisa satiksme' (Latvian Air Traffic);
- The Maritime Administration;

- The Radiation Safety Centre;
- Counter-Terrorism Centre;
- Etc.

INTERNATIONAL CO-OPERATION

The Government of Latvia considers that the international cooperation for the suppression of terrorism is an essential aspect to prevent terrorism. The Security Police is involved in different practical security authority forms at the NATO and the EU level in order to enhance the states' capacity to suppress terrorism.

Thus, taking into due consideration the danger posed by nuclear-terrorism, Latvia actively participates in global efforts to contribute to the non-proliferation of nuclear and other radioactive materials and their associated infrastructure as well as in defining measures to minimize the threat of the malicious use of these materials. Latvia is party to international agreements governing the non-proliferation issues, including operational tools like the framework for nuclear-related export control, the Nuclear Suppliers Group (NSG), as well as the Proliferation Security Initiative (PSI) and the Global Initiative to Combat Nuclear Terrorism (GICNT).

The Criminal Procedure Law does not set out a specific regulation regarding the international mutual cooperation in criminal matters related to terrorism; therefore, the general provisions of the Criminal Procedure Law must apply. Taking into account that with regard to international cooperation to suppress terrorism many bilateral and multilateral treaties have been concluded, the provisions of the Law must apply *mutatis mutandis* to the rules of treaties. Nevertheless, the Criminal Procedure Law provides that legally obtained evidence within the merits of legal cooperation abroad have the same relevance as those obtained domestically under the terms of the Latvian Law.

Since Latvia is a Member State of the EU, a great deal of international cooperation is set by the EU regulations. Thus, a particular attention should be paid to the Council of EU Framework decision 2008/919/JHA setting out the framework of suppression of terrorism among the EU Member States. In addition, Latvia has concluded bilateral treaties with states outside the EU on cooperation on suppression of severe crimes, *inter alia*, terrorism.

Within the merits of international cooperation Latvia may request the international cooperation from another state in the fields of:

- extradition;
- surrender for criminal proceedings;
- surrender for serving sentence;
- transfer of proceedings in criminal matters;
- and other.

If the place of residence of an alleged offender is unknown, the Latvian Prosecutor General, acting under the request of the Court, is in the position to promulgate the international criminal search. The extradition to Latvia from other Member State of the EU is performed in accordance with the decision of the Prosecutor General to apply the European Warrant Order.

It must be stressed that Latvia pays particular attention to the Rule of Law and the observation of the Human Rights of person who stands for extradition. Therefore, the extradition can be refused on the grounds that there is a well-founded doubt that the Human Rights of the extradited person will be respected. Moreover, the Latvian authorities must refuse to comply with the request for extradition, *inter alia*, if there are grounds to believe that the offence regarding which the extradition is requested is a political offence.

Nevertheless, taking into account the international obligations of Latvia, the request for extradition may not be refused solely on the grounds that it is considered to be a political offence. Moreover, the Criminal Procedure Law sets out that if the extradition for terrorist offence is requested from another Member State of the EU, the Latvian authorities do not have to ascertain whether this offence is penalised under Latvian legislation.

Relevant Council of Europe conventions – Latvia	Signed	Ratified
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism [CETS No. 198]	19/05/2006	25/02/2010
Council of Europe Convention on the Prevention of Terrorism [CETS No. 196]	19/05/2006	02/02/2009
Convention on Cybercrime [ETS No. 185]	05/05/2004	14/02/2007
Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems [ETS No. 189]	05/05/2004	14/02/2007
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime [ETS No. 141]	11/03/1998	01/12/1998
European Convention on the Compensation of Victims of Violent Crimes [ETS No. 116]		
European Convention on the Suppression of Terrorism [ETS No. 90]	08/09/1998	20/04/1999
Protocol amending the European Convention on the Suppression of Terrorism [ETS No. 190]	05/05/2004	08/02/2005
European Convention on the Transfer of Proceedings in Criminal Matters [ETS No. 73]	30/10/1996	02/06/1997
European Convention on Mutual Assistance in Criminal Matters [ETS No. 30]	30/10/1996	02/06/1997
Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 99]	30/10/1996	02/06/1997
Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 182]	24/09/2003	30/03/2004
European Convention on Extradition [ETS No. 24]	30/10/1996	02/05/1997
Additional Protocol to the European Convention on Extradition [ETS No. 86]	30/10/1996	02/05/1997
Second Additional Protocol to the European Convention on Extradition [ETS No. 98]	30/10/1996	02/05/1997
Third Additional Protocol to the European Convention on Extradition [CETS No. 209]	10/11/2010	26/01/2012
Fourth Additional Protocol to the European Convention on Extradition [CETS No. 212]	20/09/2012	