

# ARMENIA

November 2017

## NATIONAL POLICY

Armenia resolutely condemns terrorism and is fully committed to the international struggle against it. 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 Criminal Code, the Law on the Fight Against Terrorism from March 22, 2005, the Law on Combating Money Laundering and Terrorism Financing (AML/CFT Law) from May 26, 2008, other relevant acts of national legislation, as well as by the international agreements of RA.

## LEGAL FRAMEWORK

### Penal law

*Article 217 of the Criminal Code of the Republic of Armenia (hereinafter; Criminal Code) defines the corpus delicti of "Terrorism".*

*"Terrorism, i.e., an action which is aimed at causing death or serious bodily injury to a civilian or a person who is not actively participating in hostilities in an armed conflict, or threat of such actions, when such action, by its nature or essence, is aimed at intimidating the population or exerting pressure on decision making or performing an action or refraining from performing an action by a state official or representative of an international organization, as well as any other action which is regarded as terrorism according to the international agreements of the Republic of Armenia, except the actions provided by the Article 218 of the Criminal Code, is punished with imprisonment for a term of five to ten years, with a confiscation of the property or without it.*

The Article also contains provisions defining aggravating circumstances of such terrorist offences. *The same action committed a) by several persons with prior agreement is punished with imprisonment for a term of eight to twelve years, with a confiscation of the property or without it, b) by an organized group, c) causing death by negligence or other grave*



*consequences is punished with imprisonment for a term of ten to fifteen years, with a confiscation of the property or without it.*

Article 217.1 of the Criminal Code criminalizes the financing of terrorism (FT) in line with the requirements of the International Convention for the Suppression of the Financing of Terrorism, ratified in 2004. Financing of terrorism is defined as an action of providing or collecting property by any means, directly or indirectly, with the knowledge that it is to be used or may be used, in full or in part, for committing terrorism or any of the acts specified under Article 218 of the Criminal Code (taking of hostages), or by a terrorist organization or by an individual terrorist; or an action of providing financial services with the knowledge that such services are aimed at committing terrorism or any of the acts specified under Article 218 of the Criminal Code, or that the proceeds thereof are to be used by a terrorist organization or by an individual terrorist, which is punished with imprisonment for a term of three to seven years, with or without confiscation of property.

Aggravating circumstances of FT include the same action committed by a group of persons with prior agreement, or by an organized group, which is punished with imprisonment for a term of eight to twelve years, with a confiscation of the property or without it.

According to Article 259 of the Criminal Code, making a false statement about a prepared act of terrorism, is also subject to criminal liability, punishable with a fine of 200 to 400 of minimal salaries, or with arrest for a term of one to three months, or with imprisonment for a term of up to three years.

Article 388 of the Criminal Code criminalizes terrorism against a representative of a foreign state or an international organization.

According to this Article use of violence against a representative of a foreign state or an international organization, or kidnapping, or deprivation of freedom, if these actions were committed with the purpose of provoking war, or complication of international relations, is punished with imprisonment for a term of five to twelve years.

The murder of the representative of a foreign state or an international organization, if this action was committed with the purpose of provoking war, or complication of international relations, is punished with imprisonment for the term of twelve to twenty years or for life.

Article 389 of the Criminal Code *defines the corpus delicti* of "International terrorism".

*"International terrorism, i.e., organization or implementation of an explosion or arson or other acts in the territory of a foreign state, with the purpose of provoking international complications or war or destabilization of a foreign state, aimed at the destruction of people, or causing them bodily injuries, destruction or damage of facilities, roads and means of transportation, communications, or other assets, is punished with imprisonment for the term of twelve to twenty years, or for life.*

Articles 104 and 112 of the Criminal Code envisage terrorism as an aggravating circumstance of murder and infliction of willful heavy damage to health. Such acts are punished with imprisonment for a term of eight to fifteen years or for life and with imprisonment for a term of five to ten years, accordingly.

The Criminal Code also contains specific provisions with regard to taking of hostages, occupation of buildings, facilities, means of transportation or communication and hijacking or capture of an aircraft, ship or train (Articles 218, 219, 221).

#### Jurisdiction

Articles 14-17 of the Criminal Code refer to jurisdictional rules. As a basic principle, a person who has committed a crime in the territory of the Republic of Armenia is subject to criminal liability under the Criminal Code of the Republic of Armenia (territorial principle).

According to Article 14 a crime is to be considered as having been committed in the territory of RA if it was 1) initiated, continued or completed in its territory or 2) was committed in complicity with persons who have committed crimes in the territory of another state. Paragraph 3 of the same Article provides that in case of a crime committed in the territory of RA and other states, the person's liability arises under the Criminal Code of the Republic of Armenia, if that person was subjected to criminal liability in the territory of RA and unless otherwise provided by an international agreement of the Republic of Armenia.

Paragraph 4 of the same Article prescribes that the person who committed a crime on a board of a ship or flying aircraft bearing the flag or the identification of the Republic of Armenia is subject to criminal liability, regardless of their location, under the Criminal Code of RA, unless otherwise stipulated in an international agreement of the Republic of Armenia. Also subject to liability under the Criminal Code of the Republic of Armenia, is the person who committed a crime on board of a military ship or aircraft of the Republic of Armenia, regardless of their location.

In accordance with Article 15 of the Criminal Code, the

citizens of the Republic of Armenia, as well as stateless persons permanently residing in the Republic of Armenia, who have committed a crime outside the territory of the Republic of Armenia, are subject to criminal liability under the Criminal Code of the RA, if the act committed by them is recognised as a crime according to 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 under the Criminal Code of RA for committing crimes prescribed by Articles 388 (Terrorism against a representative of a foreign country or an international organization) and 389 (International terrorism), regardless whether the act is considered as a crime or not in the state where the crime was committed.

Foreign citizens and stateless persons not permanently residing in the Republic of Armenia, who committed a crime outside the territory of the Republic of Armenia, are subject to criminal liability under the Criminal Code of RA, if they committed: 1) such crimes which are provided by an international agreement of the Republic of Armenia; 2) such grave and particularly grave crimes which are directed against the interests of the Republic of Armenia or the rights and freedoms of the RA citizens. In such cases, these persons are subject to criminal liability under the Criminal Code of RA, if they have not been convicted for this crime in another state and are subjected to criminal liability in the territory of the Republic of Armenia.

Article 16 of the Code refers to the rules of extradition.

As a basic principle, upon a request of a foreign state the foreign citizens and the stateless persons who committed a crime outside the territory of the Republic of Armenia and reside in the Republic of Armenia, can be extradited to a foreign state, for criminal liability or to serve the punishment, in accordance with international agreements of the Republic of Armenia.

The Article also provides the cases where extradition cannot be granted: 1) if the person who committed a crime in another state is a citizen of the Republic of Armenia, 2) if the legislation of the state seeking extradition envisages death penalty for the given crime, 3) if there are serious reasons to believe that the extradition has been requested for investigating or punishing the person because of his/her belonging to racial, religious, national, certain social group or political opinion or there is a serious threat that the person sought for extradition can be subjected to torture or inhuman treatment or punishment.

In case of refusal to extradite the person who committed a crime, the prosecution for the crime committed in the territory of a foreign state is carried out in accordance with the national legislation of the Republic of Armenia.

## Procedural rules

There is no special regulation for the criminal procedures of prosecuting persons suspected of terrorist acts under the Criminal Procedure Code (CPC) of the Republic of Armenia. The Code derives from the principle that legally criminal proceedings based on suspected terrorist criminal acts and other suspected criminal acts are equal. For this reason, all provisions of the Code, which apply to other accused persons before or during trial, are in principle to be applied to those suspected of terrorism. In particular, those accused persons have the same rights as all other accused persons during the criminal proceedings.

The provisions of Chapter 54 of the Criminal Procedure Code regulate the procedures for undertaking of procedural actions by the Armenian authorities acting upon requests from competent authorities of foreign states.

## Investigative measures

Article 14 of the Criminal Procedure Code prescribes the right of confidentiality of correspondence, telephone conversations, postal, telegraph and other communications and provides that its surveillance may be ordered in the course of criminal proceedings and only upon a decision of the court in the manner prescribed by law.

Article 41 of the Code, in line with the powers of the court, prescribes the power of imposition of restrictions on the confidentiality of correspondence, telephone conversations, postal, telegraph and other communications.

According to Article 239 of the Criminal Procedure Code, if there are sufficient grounds to presume that the correspondence, telephone conversations, postal, telegraph and other communications sent or received by a suspected or accused person, might contain probative information, the investigator can make a justified request to the court to monitor the correspondence of such persons.

The supervision and recording of telephone conversations can be set up for a period of not more than six months. These measures are terminated if they are no longer required, and in any case no later than the time of completion of the preliminary investigations. According to Paragraph 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.

## Other relevant legislation

### Preventing the Financing of Terrorism

The legal framework for countering FT is based on the Republic of Armenia Law on Combating Money

Laundering and Terrorism Financing (AML/CFT Law) from May 26, 2008.

Article 28 of the AML/CFT Law provides for the obligation of the customs authorities and reporting entities (i.e., banks, credit organizations, etc.) to freeze all funds, financial assets or economic resources owned or controlled, directly or indirectly, by terrorism-related persons included in the lists published by or in accordance with the UN Security Council resolutions (UNSCR) as well as in the National Lists published by the Authorized Body (i.e. Central Bank) without delay and without prior notice to the persons involved. Upon freezing the property of terrorism-related persons, reporting entities shall without delay proceed to recognize the transaction or business relationship as suspicious and file a report with the Financial Monitoring Center of the Central Bank (FMC) on suspicious transaction or business relationship. Freezing is imposed for an indefinite term and may be revoked only by the FMC if the property has been frozen by mistake, or the criminal prosecution body arrests the frozen property, or when the person with frozen property has been removed from the lists of terrorism-related persons published by the Authorized Body. Any designations made under UNSCRs are directly enforceable in the territory of Armenia. In addition, an innovative system is deployed allowing the FMC to remotely input updates in the UN sanctions lists into financial institutions' databases through an algorithm installed within their IT systems. Where a match is identified by the system, an automatic notification is generated, which then disables continuation of the transaction and prompts the financial institutions to freeze the assets belonging to the designated persons and submit a suspicious transaction report. When finding a match with designated individuals and entities the Authorized Body can adopt an administrative act ordering freezing the assets of terrorism-related persons.

Article 16 of the AML/CFT Law requires reporting entities to conduct customer due diligence when there is a suspicion of terrorism financing, irrespective of the amount involved. The internal monitoring units of reporting entities shall commence the process of recognizing a transaction or a business relationship as suspicious, inter alia, whenever the circumstances of the case fully or partially match the criteria or typologies of suspicious transactions or business relationships elaborated in the relevant legal acts of the Authorized Body. Reporting entities shall introduce risk management procedures to enable detection and assessment of potential and existing risks, and to take measures proportionate to the risk.

On 10 December 2015 the Council of Europe MONEYVAL Committee adopted the 5th Round Mutual Evaluation Report of Armenia's Anti-Money Laundering and Counter-Terrorist Financing Measures. Armenia was found to have a broadly sound legal and institutional framework to combat ML and FT. From the perspective

of technical compliance, and particularly adequate legislative mechanisms in place Armenia was fully or largely compliant with 35 out of 40 recommendations. From the perspective of effectiveness Armenia demonstrated substantial level of effectiveness in relation of FT preventive measures and financial sanctions. The evaluation team concurred with the view of authorities stating that the risk of FT in Armenian is very low.

#### Protection of victims and witnesses

Chapter 12 of the Criminal Procedure Code provides the right of defense for any person involved in the criminal proceedings, who may provide information essential for detecting the crime and its perpetrator, which may endanger the life, health, property, rights and interests of that person, or his/her family member, close relative or close person (a person for whose protection the person involved in criminal proceedings has applied in writing to the authority conducting the criminal proceedings).

Where the authority carrying out the criminal proceeding considers that the above-mentioned persons need to be protected, at the request of those persons or on its own initiative, it shall decide on taking appropriate measures required for their defense (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 98<sup>1</sup> 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 proceedings if there is no more necessity to maintain it. The protected person should be notified about the decision.

According to Article 84 of the Judicial Code 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.

The Law on the Fight Against Terrorism of RA defines the main goals, principles, legal and organizational framework of the fight against terrorism in the Republic of Armenia. Article 2 prescribes that the organization of the fight against terrorism in the Republic of Armenia shall aim at:

- 1) preventing, detecting, forestalling and curbing the terrorist activities and eliminating the consequences thereof,
- 2) protecting the humans, the public and the state against terrorism,
- 3) detecting and eliminating the causes and conditions sustaining terrorist activities.

Among the legal instruments for the fight against terrorism it is important to mention the "National Strategy of the Republic of Armenia on the fight against terrorism" that was adopted by the order NK-51-N of the President of the Republic of Armenia on 5 May 2012, as well the "Action Plan for the Implementation of the National Strategy for the fight against terrorism in the Republic of Armenia" that was adopted by decision N 1473-A of the Government of the Republic of Armenia on 22 November 2012.

#### INSTITUTIONAL FRAMEWORK

The fight against terrorism is conducted by the state bodies authorized by the Government of the Republic of Armenia within the power granted to them by the law.

The entities immediately responsible for conducting the fight against terrorism are:

- 1) The republican executive body of the national security (National Security Service) of the Republic of Armenia,
- 2) The republican executive body of the police (Police) of the Republic of Armenia,
- 3) The republican executive body of the defense of the Republic of Armenia.

Other republican bodies of the executive power shall, within the limits of the power granted to them by law, take part in the fight against terrorism.

The above mentioned bodies, amongst other republican bodies of the executive power, are involved in a civil aviation security interdepartmental commission, established in accordance with decree N 1307 of the Government of RA, from October 2, 2003. By this decree the national program on the civil aviation security was adopted, defining the state policy principles in the field of civil aviation and aimed at providing the international and domestic security of the 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 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.

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 and is responsible for preserving the state border of the Republic of Armenia, protection of the security and independence of RA, the implementation of border control, state border regime and border regime at state border crossing points.

The Department on Combating Organised Crime of the Police 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 Police Forces of the Republic of Armenia act within the structure of the Police and are responsible for the protection of human rights and freedoms from criminal and other illegal encroachments in accordance with law, as well as for the ensuring of public and state security.

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

During the pre-trial proceedings, the Prosecutor is authorized to institute and conduct criminal prosecution, instruct the inquiry body and the investigator to prepare materials for initiating a criminal case pursuant to the Criminal Procedure Code of RA.

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.

The Central Bank of Armenia is the Authorised Body in the field of combating money laundering and terrorism financing. The main functions of the Authorised Body are vested on the FMC, i.e. the Financial Intelligence Unit of Armenia, as a structural subdivision of the Central Bank. The activities of the FMC are governed by the AML/CFT Law, the FMC Statute, and other legal instruments. See also section "Preventing the financing of terrorism" above.

Cooperation and coordination of national AML/CFT policies is conducted through the Standing Committee on Combating Money Laundering, Terrorism Financing and Proliferation Financing in the Republic of Armenia, which is composed of very senior officials representing all authorities involved in the prevention of ML/FT.

## 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 signed bilateral agreements on counter-terrorism with the Republic of Latvia in 2009, and with the United Arab Emirates in 2016. Besides that, Armenia has signed bilateral agreements on co-operation in criminal issues, including issues relating to terrorism and organised crime with Romania, Bulgaria, United States, Lithuania, Georgia, Greece, United Arab Emirates, Egypt, Iran, Syria, China and Kuwait.

### UN

Armenia attaches great importance to its cooperation with the UN Security Council Counter-Terrorism Committee established pursuant to Resolution 1373 (2001) and presents regular reports on measures taken at national level.

Armenia has signed and ratified a series of international conventions on the fight against terrorism developed under the auspices of the United Nations and its specialised agencies.

### 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 the table 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, which was ratified on August 30, 2016.

Armenia actively participates in in the Council of Europe's initiative in the fight against terrorism, mainly through the Committee of Experts on Terrorism (CODEXTER) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

#### 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 Member States and its database.

Armenia has been steadily engaged in the CIS "Border-Barrier" special initiative, aimed at revealing and forestalling the groups involved in organized crime, terrorist and extremist groupings, as well as the cases of illicit trafficking in armaments and ammunition.

The Programme on Cooperation of States Members of CIS in the Fight Against Terrorism and Other Violent Manifestations of Extremism for the period of 2017-2019 was adopted by the decision of the CIS Heads of Government Council, in Bishkek on September 16, 2016.

Armenia has signed and ratified a series of legal instruments on the fight against terrorism within the framework of CIS.

1. Treaty on Co-operation among CIS Member States in Combating Terrorism (1999).
2. Agreement on interaction of ministries of internal affairs of CIS member states on Combating Crime (1992)
3. Agreement on Co-operation in the Field of Protection of Civil Aviation from Illegal Interference (1995).

4. Agreement on Co-operation among CIS Member States on Combating Crime (1998).
5. Protocol approving the regulation on the procedure of organising and conducting of joint antiterrorism events in the territories of CIS Member States (2002)
6. Agreement on countering the legalization (laundering) of crime revenues and the financing of terrorism (2007).
7. Agreement on cooperation in the field of training of competent authorities of antiterrorist departments in educational institutions of the CIS Member States (2012)
8. Agreement on cooperation in the field of material and technical support of competent bodies of the CIS Member States engaged in combating terrorism and other violent manifestations of extremism (2012)

#### 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 (CSTO), 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.

On December 9, 2010, the Committee of secretaries of security councils (CSSC) of member states of the CSTO adopted the Decision on the list of organizations recognized as terrorist and extremist (in nature) within the CSTO member states.

During its session held in Yerevan on June 8, 2016, the Committee of secretaries of security councils (CSSC) of member states of the CSTO approved the renewed list of organizations recognized as terrorist and extremist within the CSTO member states to enable coordinated measures aimed at detection and prevention of activities of such organizations within the sphere of responsibility of the CSTO. The nomenclature currently includes more than 90 terrorist and extremist organizations while in 2010 it comprised only 47.

#### BSEC

Within the framework of the Black Sea Economic Cooperation organization Armenia has signed and ratified the Agreement Among the Governments of the Black Sea Economic Cooperation Participating States on Cooperation in Combating Crime, in Particular in its Organized Forms (1998) and the Additional Protocol on Combating Terrorism to the Agreement among the Governments of the Black Sea Economic Cooperation Participating States on Cooperation in Combating Crime, in Particular in its Organised forms (2004).

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)	03/03/09	08/12/10
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 (CETS 196)	17/11/05	30/08/16
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198)	17/11/05	02/06/08