



ITALY

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NATIONAL POLICY

Italy has always been actively committed to the fight against terrorism and organized crime.

National legislator and law enforcement agencies firmly believe that a successful policy against terrorism as well as organized crime cannot be achieved without the utmost respect for the necessary individual guarantees. The protection of basic human rights always represents the standards for all the initiatives put in place.

These guarantees are fully ensured by the fundamental procedural rules regulating terrorism cases. Terrorism cases (as well as organized crime cases) are in fact investigated, prosecuted and tried by independent district prosecutors (who consult and coordinate with, and issue instructions to the police) and by independent judges. There is no military jurisdiction over terrorism cases.

No immunity is granted to anyone, including members of law enforcement and intelligence agencies, who with the aim of preventing or repressing terrorism acts infringe procedural rules and the respect of human rights.

Investigation techniques intruding on fundamental rights such as privacy, communication, freedom of movement are regulated by the law and by the principles of proportionality and subsidiarity. When implemented, such techniques are subject to judicial order and review.

The national law enforcement agencies are more and more aware that organized crime and terrorist groups often operate in similar ways and that this growing convergence of organized crime and terror groups is perceived as a global threat to the security of many Countries.

Even before the serious attacks in the United States on 9/11, several investigations confirmed the presence of international terrorist groups in Italy, suspected of planning criminal actions in foreign countries.

The new scenario arising after 9/11 led the Italian Authorities to take important legislative measures.

Thanks to the experience gained from the second half of the 1970's in the fight against terrorism and from the eighties in the fight against mafia organizations, Italy was able to promptly modify its legislation on the matter, adjusting the counteractive measures to the increasing threat from international terrorism and transplanting pieces of legislation against organized crime into legislation on terrorism.

Furthermore, as this phenomenon took on a transnational dimension, Italy aimed at enacting the most appropriate legislation to assure the highest level of cooperation and coordination at the national and international levels.

LEGAL FRAMEWORK

General information

In 2001, immediately after the terrorist attack on 9/11, law no. 438 criminalized the following misconduct:

- participation to a terrorist organization;
- promoting setting up, organizing, managing and financing associations whose purpose is to commit acts of violence for terrorist purposes or for subversion of the democratic order against public institutions including foreign countries and international organizations;
- providing the members of a terrorist organization with shelter, food hospitality, means of transport of communication, apart from cases of complicity in the crime or participation in a terrorist organization, or aiding or abetting

In 2005, the legislation on terrorism was further developed due to the issuance of law no. 155 ("Urgent measures to fight international terrorism") which enhanced instruments to fight the threat of terrorist organizations and criminalized new misconduct that might lead to terrorist acts, such as active recruiting and training for terrorism purposes.

In this respect, Italy focused most of its efforts in complying with the international instruments aimed at strengthening police and judicial co-operation on a multilateral basis.

The development of legislation over the years has thus led to:

- the criminalization of new types of offences, especially of misconduct that might lead to the commission of acts of terrorism;
- the strengthening of sanctions for specific offences;
- the provision of procedural and non-procedural protection measures with subsequent reductions of sentences or, for some offences, exemption from punishment for those offenders who decided to cooperate with justice;
- the provision of special investigation techniques such as interceptions, wire tapes, undercover operations, financial investigations, computer searches, cyber investigations;
- the provision of specific measures aiming at preventing the perpetration of terrorist attacks;
- several supplemental rules on public order and security, prison systems, competence and prerogatives of law enforcement officers, control of suspicious financial transactions

The legislation was further developed in 2015 and 2016.

On February 20, 2015, new legislation amending the Criminal Code with respect to fighting terrorism entered into effect in Italy. Decree-Law No. 7 of February 18, 2015, Urgent Measures for the Fight against Terrorism, Including International Terrorism, as well as Extension of the International Missions of the Armed Forces and Police, Cooperation Initiatives for the Development and Support of Reconstruction Processes, and Participation in Initiatives of International Organizations for the Consolidation of Peace and Stabilization Processes.

In August 2016, a new law ratifying the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) and of its Additional Protocol (CETS No. 217) as well as other International Instruments such as the UN International Convention for the Suppression of Acts of Nuclear Terrorism; the 2003 Protocol amending the European Convention on the Suppression of Terrorism (CETS No. 190), the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the financing of Terrorism (CETS No. 198) entered into force.

Pursuant to above-mentioned 2015 and 2016 legislation new types of misconduct were criminalized, such as:

- being recruited by others to commit acts of terrorism (article 1 of Decree-Law No. 7 of February 18, 2015);
- organizing, financing, or promoting travels abroad for the purpose of performing acts of terrorism (article 1 of Decree-Law No. 7 of February 18, 2015);
- performing acts of terrorism by the individual who acquired even autonomously instructions to perform such acts;
- using digital or telecommunications instruments to perform such acts (as an aggravating circumstance (article 2 of Decree-Law No. 7 of February 18, 2015);
- introducing or providing, without legal authority, within the national territory substances or mixtures that serve as precursors of explosives (article 3 of Decree-Law No. 7 of February 18, 2015 of February 18, 2015, introducing article 678 bis of the Criminal Code)
- financing of misconduct having terrorism purposes (law 153/2016 art. 4, amending art. 270 quinquies of the Criminal Code);
- depositing or holding assets in order to finance misconduct having terrorism purposes (law no. 153/2016, art. 4, amending art. 270 quinquies of the Criminal Code);
- theft of money and assets being confiscated to prevent financing of misconduct having terrorism purposes (law 153/2016, art. 4);
- providing nuclear material, fabricating or possessing a nuclear weapon, making use of radioactive materials and nuclear weapons, making use or damaging a nuclear plant so that radioactive material is released (law 153/2016, art 4)

Apart from these provisions, article 1 of Law No. 15/1980 provides for aggravating circumstances where a crime is carried out for the purposes of terrorism.

The National Anti-Mafia and Counter-Terrorism prosecution Office is a centralized judicial authority empowered to coordinate the investigations on terrorism and organized crime run by district prosecutor's offices. The mandate of the former National Anti-Mafia Prosecutor was extended to include terrorism cases by Decree Law No. 7/2015. The Chief Prosecutor's staff have access to all files relating to terrorism cases handled by the district prosecutor's offices. They may cooperate with police forces specialized in combatting organized crime and terrorism.

The National Anti-Mafia and Counter-Terrorism Attorney-General also manages a national database on terrorism cases investigated and prosecuted by

district prosecutor's offices. Before the extension of the mandate of the National Anti-Mafia Chief Prosecutor to terrorism cases the District Prosecution Offices used to coordinate themselves through spontaneous exchange of information and regular meetings.

Criminal law

The current legislation on terrorism provides a definition of acts committed for terrorist purposes and punishes terrorist conduct both in the form of individual acts and offences related to an organized terrorist association (article 270 sexies of the Criminal Code introduced by Law No. 155/2005).

The national law mirrors the relevant international instruments provisions (article 3 of the 1999 UN Convention on the Suppression of Financing of Terrorism, article 1 of European Union Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism) and defines the acts committed for terrorism purposes as "acts which, by nature or because of their context, can cause serious harm to a country or international organization and are committed in order to intimidate people or coerce public authorities or an international organization to perform, or refrain from performing, any act or to destabilize or destroy the fundamental political, constitutional, economic and social structures of a country or international organization, as well as the other types of terrorist conduct or carried out for terrorism purposes as provided for by conventions or other international laws binding on Italy".

Hereinafter the most relevant specific types of offences provided for by the Criminal Code:

Article 270 bis of the Criminal Code, modified by law no. 438/2001, punishes participation to a terrorist organization as well as anyone who "promotes, sets up, organizes, manages or finances" associations whose purpose is to commit acts of violence for terrorist purposes (even against foreign Countries and international organizations) or for subversion of the democratic order".

Participation to a terrorist organization is punished from five to ten years punishment; promotion, organization, management and financing of a terrorist organization is punished from seven to fifteen years imprisonment;

Article 270 ter of the Criminal Code, introduced by Law no. 438/ 2001, punishes, to a lesser extent, "anyone who, apart from cases of complicity in the crime of participation to a terrorist organization, or aiding and abetting, provides the

members of terrorist organization with shelter, food, hospitality, means of transport or communication";

Article 270 quater of the Criminal Code, introduced by law no. 155/2005, punishes from seven up to 15 years imprisonment the conduct of "anyone who, except for the cases mentioned under Article 270 bis (punishing participation to a terrorist organization) and of illegal training, recruits one or more persons to commit acts of violence and/or sabotage of public services for terrorism purposes.

A person commits an offence if these acts are directed against a Foreign Country and/or an international Institution and/or an international organization.

The recruited person is punished with the imprisonment from five to eight years;

Pursuant to the 2005 and 2015 legislation, the active recruitment as well as the being recruited are criminalized.

Article 270 quater 1 of the Criminal Code (introduced by the 7/2015 decree law) punishes from five to eight years imprisonment the conduct of anyone who, except for the cases mentioned under Article 270 bis and of illegal recruitment, organizes, finances, or promotes travels abroad for the purpose of performing acts of terrorism.

Article 270 quinquies of the Criminal Code (introduced by law no. 155/2005) punishes from five to ten years imprisonment the conduct of "anyone who, except for the cases mentioned under Article 270 bis, trains or otherwise gives instructions on how to prepare or use explosive materials, firearms, or other weapons, harmful or hazardous chemical or bacteriological substances, and all other techniques or methods to commit acts of violence or sabotage of essential public services for the purposes of terrorism, even if directed against a foreign State, an international institution or organization".

The trainee and anyone having acquired by himself/herself the skills on the fabrication and use of explosive materials, weapons, noxious or hazardous chemical and/or bacteriological substances with the purpose to commit terrorist offences are punished with the imprisonment from five to ten years.

The provision punishes also from five to ten years imprisonment the conduct of an individual performing acts of terrorism after having acquired even autonomously instructions to perform such acts.

The use of internet to carry on a training activity is an aggravating circumstance;

Article 270 quinquies.1 of the Criminal Code (introduced by law no. 153/2016) punishes from 7 to 15 years imprisonment anyone collecting or supplying money or assets in order to carry on a terrorist act contemplated by article 270 sexies of the Criminal Code, regardless the circumstance that the terrorist offence is committed and the effective use of the money or the assets;

Article 270 quinquies.1 of the Criminal Code punishes also from 5 to 10 years imprisonment anyone depositing or holding assets in order to finance misconduct having terrorism purposes;

Article 270 quinquies.2 of the Criminal Code (introduced by law no. 153/2016) punishes from 2 to 6 years imprisonment anyone destroying or embezzling money or assets being confiscated to prevent financing of misconduct having terrorism purposes.

Assets deriving directly from the perpetration of crimes with terrorism purposes (or any other asset belonging to the perpetrators having an equivalent value) as well as anything that was used to commit those crimes are subject to confiscation (article 270 septies of the Criminal Code, introduced by law 153/2016);

Article 280 of the Criminal Code punishes with no less than twenty years imprisonment anyone who "attacks for terrorist or subversive purposes" upon "a persons life or integrity"; the punishment varies depending on the effects (death, very serious injury or serious injury) and the conduct directed against "persons exercising functions in the judicial or prison field or exercising law enforcement functions" is considered as an aggravating circumstance;

Article 280 bis of the Criminal Code punishes from 2 to 5 years imprisonment anyone who for terrorism purposes performs any act aimed at destroying third persons' property by using explosives;

Article 280 ter of the Criminal Code (introduced by law 153/2016, art. 4) punishes with no less than fifteen years imprisonment anyone who for terrorism purposes is:

- providing nuclear material,
- fabricating or possessing a nuclear weapon.,
- making use of radioactive materials and nuclear weapons;

Article 280 ter of the Criminal Code punishes with no less than twenty years imprisonment anyone who for terrorism purposes makes use of or

damages a nuclear plant so that radioactive material is released;

Article 289 bis of the Criminal Code punishes from 25 to thirty years imprisonment anyone who kidnaps for purposes of terrorism or for subversion of the democratic order, differentiating this offence from the "ordinary" offence of kidnapping for ransom. It was added by Decree-law no.59 dated March 21, 1978, converted into law no. 191 of March 18, 1978, issued after the kidnapping and subsequent murder of an important Italian politician committed by a subversive group;

Article 302 of the Criminal Code, on incitement to commit terrorist offences punishes from one up to eight years imprisonment "Whoever incites another person to commit one of the intentional [terrorist] offences, for which the law provides for life imprisonment or a prison sentence, if the incitement is unsuccessful, or if the incitement is successful, but the offence is not committed. The punishment shall be increased by up to two thirds if the act is committed through internet or electronic tools";

Article 414, paragraph 1 of the Criminal Code punishes up to five years imprisonment public incitement to commit crimes. The same punishment shall apply also to those who publicly glorify one or more criminal offences. The punishment shall be increased if the offence is committed through electronic tools" and if glorification and incitement relate to terrorist offences;

Art. 678 bis of the Criminal Code (introduced by decree law 7/2015) punishes up to eighteen months imprisonment anyone introducing or providing, without legal authority, within the national territory substances or mixtures that serve as precursors of explosives.

Art. 679 bis of the Criminal Code (introduced by decree law 7/2015) punishes up to eighteen months imprisonment anyone omitting to report the theft or disappearance of substances or mixtures that serve as precursors of explosives.

Article 1 of Law no 15/1980 provides for an increase of punishment by half for all the offences committed for terrorist or subversion of the democratic order purposes. This aggravating circumstance may in principle be applied to all the offences established by the legislator but all the cases when the terrorism purpose is an element of the offence (as is the case of the specific offences mentioned in the Criminal Code and specified above).

LIABILITY OF LEGAL PERSONS

Article 25 quater of the Law 231/2001 provides a form of responsibility (of administrative nature) for legal persons in whose interest any crime with terrorism purposes is committed.

IMMUNITY, MITIGATING CIRCUMSTANCES AND PROTECTIVE MEASURES FOR THOSE WHO COOPERATE WITH JUSTICE

The National legislation provides with specific incentives those who decide to dissociate themselves from terrorist dynamics and associations and for those who decide to cooperate with Justice.

Some of these incentives had already been legislated at the times of terrorist attacks carried on in Italy since the seventies by terrorist organizations such as Ordine Nuovo (an extremist right wing organization) and Brigate Rosse (an extremist left wing organization), in order to effectively fight terrorist organization through the cooperation provided with by the insiders.

Article 308 of the Criminal Code grants immunity for those who, before the perpetration:

- of crimes with terrorism purposes (listed from 270 bis to 289 bis of the Criminal Code),
- of the crimes affecting the International Legal personality of the State
 - a) prevent those crimes from being committed,
 - b) dismantle and /or contribute to dismantle the terrorist association as well as,
 - c) dissociate/disengage themselves from any kind of conspiracy and/or from the terrorist association

Article 309 of the Criminal Code grants immunity to those who before the perpetration:

- of the above listed misconduct being criminalized by articles from 270 bis to 289 bis of the Criminal Code,
- of the crimes affecting the International Legal personality of the State, falling all under the criminal scheme of an armed gang
 - a) prevent those crimes from being committed,
 - b) dismantle and /or contribute to dismantle the armed gang as well as,
 - c) dissociate themselves from the armed gang (unless they promoted, organized, managed the armed gang) and/or surrender themselves and their weapons to the Police

Article 4 of law 15/1980 grants a mitigating circumstance for the perpetrators of crimes committed for terrorism purposes, when they dissociate themselves from the co perpetrators,

effectively provide law enforcement agencies with significant evidence against the other co perpetrators so that they can be identified and arrested.

Law no. 304/1982 provides for:

- exemption from punishment for those who, having committed only offences related to their membership to a criminal organization, withdraw from the agreement, or withdraw from the organization or from the terrorist group or facilitate the dismantling of the organization or group;
- exemption from punishment in case of attacks and attempted attacks, if the perpetrators prevent the event or supply evidence necessary to ensure an accurate reconstruction of the facts and the identification of any other co perpetrator;
- the granting of mitigating circumstances to persons charged with terrorist crimes who, before the conviction, dissociate themselves from the subversive organizations and make a full confession of the offences committed and effectively cooperate to annul or mitigate the consequences deriving from such crimes, or to prevent the perpetration of other related types of criminal conduct;
- the granting of mitigating circumstances to persons charged with terrorist crimes who, besides having dissociated themselves from the criminal association and confessed the offences committed, effectively cooperate with the judicial authorities in gathering decisive evidence to identify and apprehend the perpetrators of terrorist acts, or to find evidence useful for the reconstruction of the offences and to identify the persons responsible for such offences;

Law no. 34/1987 provides for a reduction of penalty for terrorist crimes or the subversion of the constitutional order for those who, having been charged with, or sentenced for, offences committed for purposes of terrorism or subversion of the constitutional order, have once and for all dissociated themselves from the organization or the terrorist or subversive group they were members of.

Article 2 of the Law no 155/2005 provides for the issue of "permits of staying for investigation purposes" (Article 2) when, "in the course of police operations, investigations or proceedings relating to crimes committed for purposes of terrorism, including international terrorism, or subversion of the democratic order, it is necessary to ensure the permanence of a foreigner in the territory of the State" due to his "cooperation" with the investigators.

Article 6 of decree law. 8/1991 grants a mitigating circumstance for those who, after the perpetration of a kidnapping for purposes of terrorism or for subversion of the democratic order (punishable pursuant to the above mentioned article 289 bis of the Criminal Code), dissociate themselves for the other co perpetrators and significantly cooperate with Law enforcement agencies in facilitating the liberation of the victim and ensure his/her safety.

Decree law 8/1991, modified by the law 45/2001 provides for protective measures (such as relocation to be extended also to family members, change of identity, transfer of detained collaborators of justice to safe detention facilities) and financial aid for those who decide to cooperate with justice with reference to crimes committed with terrorism and/or subversion of the Constitutional order or other serious crime. Such measures can be applied to witnesses and to collaborators of justice (that is any person who faces criminal charges, or has been convicted of having taken part in an association of criminals or other criminal organization of any kind, or in organized crime offences, but agrees to cooperate with criminal justice authorities, particularly by giving information or testimony about the criminal association or organization or any offence connected with organized crime or other serious crimes).

The assessment of the credibility of the those who decide to cooperate with justice and the consequent decision on the eligibility to be granted protective measure are issued up by a committee whose members are an under Secretary of State, two magistrates and five Such assessment requires criteria such as:

- a timely guilty plea and/or detailed confession and acknowledgement of the crimes they committed;
- the supply of relevant information on their assets and proceeds derived from the perpetration of the crimes or being/having been used for the perpetration of crimes that can be forfeited/confiscated and on the assets and proceeds of the other members of the criminal group they belonged to;
- the supply of accurate and up-to-date information about the criminal organizations and the crimes perpetrated by their members;
- the supply of accurate and up-to-date information that would enable law enforcement and other relevant agencies to prevent criminal groups from committing further crimes.

Decree law 8/1991, amended by /2001 law, identifies the prerequisites necessary to be eligible

for protective measures for those who decide to cooperate with justice.

Pursuant to the Law, when assessing the credibility and relevance of the contribution provided with by a collaborator of justice, the relevant Authorities need to consider that particularly relevant can be deemed the information/testimony, related to a serious offence:

- that is necessary (e.g. if it is the only source of evidence) to start an investigation or to prevent a crime from being committed;
- that is credible (genuine and spontaneous);
- that is the crucial evidence available in order to prosecute a specific serious offence;
- that is needed to corroborate other evidence in order to successfully prosecute a specific serious offence;
- that is crucial in order to dismantle a terrorist organization and detect the proceeds derived from the perpetration of crimes;
- that, despite other evidence available, is going to be subject to bribery or intimidation.

Article 147 bis of the procedural code provides with protective measures for witnesses and collaborators of justice who testify in Court in terrorism cases and organized crime cases (such as video conference).

Those who collaborate with justice are not permitted to testify anonymously, because their credibility must be fully verified by both parties and by the trial court. Similarly, witnesses may always be examined, and cross-examined, by both parties before the court.

JURISDICTION

Pursuant to Articles 6 ff, of the Criminal Code, Italy exercises jurisdiction when a crime has been committed - even partially - in the territory of the State (Article 6 of the Criminal Code).

Regarding the crimes committed outside the territory of the country the exercise of Jurisdiction is still possible:

- when the crime has been committed against Italy (Article 7 of the Criminal Code);
- when the crime has been committed by a citizen and is punished with the minimum of three years of jail or in case of request by the Ministry of Justice (Article 9 of the Criminal Code);
- when the crime has been committed by a non-national against a national and is punished with the minimum of one year of jail;

- in all the other cases, only if there is a request by the Ministry of Justice and:
 - i. the non-national has been found in Italy and
 - ii. the crime is punished with the minimum of three years of jail and (iii) the extradition has not been accepted by the requesting State or has not been authorized.

INVESTIGATION TECHNIQUES

Organized crime and terrorism cases are dealt by the law enforcement agencies with the same investigation techniques.

Investigation techniques such as wire taps, web sites navigation, telephone, email, face to face communications intercepts can be used in terrorism cases, pursuant a reasoned order issued by the Court, following a request filed by the Public Prosecutor. The requested prerequisites for the issuance of such order are "sufficient indicia" that a terrorist crime has been committed or attempted or planned and that the implementation of such intercepts is necessary to run the investigation. The intercepts are run under judicial review (within an initial duration of forty days that can be extended pursuant to an order issued by the Court when it is deemed necessary to continue the investigations) and the outcomes can be tendered as evidence in Court.

Other investigation techniques such as financial, cyber investigations, undercover operations, controlled delivery (of weapons and/or drugs, money) are contemplated by the legislation.

Cases on terrorism and organized crime are investigated and prosecuted by specialized units within District Public Prosecution Offices.

Other relevant legislation

PREVENTIVE MEASURES

Pursuant to the Italian legislation, preventive measures are legal remedies not aimed at investigating or prosecuting a crime, but at preventing persons that are considered a danger to the public from committing crimes. The prerequisite for these proceedings is not the perpetration of a crime but the alleged current dangerousness to the public of individuals, due to their tendency to commit crimes or their addiction to misconduct and to attend other criminals.

The dangerousness of these individuals can be based only on suspicions.

Within these proceedings, the Public Prosecutor can coordinate investigations aimed at detecting assets deriving from the perpetration of crimes belonging to persons deemed as dangerous to the public (including suspect terrorists). These investigations can be run when there are indicia (not evidence) that the owners are members of criminal or terrorist organizations.

Law No. 155/2005 introduced "personal preventive measures" to combat incitement to commit terrorist crimes carried out through the use of the Internet, partly drawing upon the model used successfully in the fight against child pornography on the Internet.

Furthermore, foreigners glorifying also through the internet terrorist organizations or acts, committing preparatory acts to crimes of terrorism may be deported to their origin Countries pursuant to an order issued by the Ministry of Interior.

Decree Law No. 7/2015 extended the applicability of such measures to foreign terrorist fighters.

Pursuant to law No 159/2011, individuals committing preparatory acts aimed at subverting the Constitutional Order, through the perpetration of crimes with terrorism or taking part to an armed conflict abroad by supporting an organization having terrorist purposes are deemed dangerous to the public and may be subject to preventive measures, such as the police supervision and compulsory residence in the place of residence or in the habitual dwelling place, the temporary withdrawal of a passport, and the suspension of the validity of any other equivalent document for travelling abroad. These measures are issued by the Courts through a reasoned order at the request of the District Public Prosecutor or the National Anti-Mafia and Counter-Terrorism Prosecutor.

The above-mentioned individuals as well as individuals and entities listed by the UN "1267 Committee" Analytical Support and Sanctions Monitoring Team as suspected terrorist financing may be subject also to financial preventive measures such as confiscation of assets deriving from perpetration of crimes or whose value is deemed disproportionate to the legal incomes and may be used to finance terrorist acts.

PREVENTION OF TERRORIST CRIMES

Pursuant to article 2 of decree law 7/2015, the Ministry of the Interior is entitled to set up a list of the websites being used for terrorist misconduct, such as incitement and recruitment to commit terrorist acts, training for the purpose of terrorism,

including international terrorism. The authorities (including District Prosecution Offices, when running criminal cases on terrorism) may order Internet service providers to immediately block access to such websites once these websites have been identified by the authorities and to remove their content or ban the access to the Internet domain. In the case of user-generated content hosted on platforms related to third parties, the latter are required to remove only the content deemed illegal.

Pursuant to art. 226 of the Criminal Procedural Code Law enforcement agencies, upon an order issued by the District Prosecutor as well as Intelligence agencies (pursuant article 4 law 155/2005) upon an order issued by the Prosecutor General of Roma (at the request of the Prime Minister) may intercept e mail, telephone, face to face, e mail, social networks communications with the aim to detect terrorist threats prevent terrorism acts.

This surveillance is not aimed at collecting evidence, but at collecting information that might be used to prevent any terrorist action. The outcomes of the electronic surveillance cannot be tendered as evidence in Court.

These outcomes can however entitle law enforcement agencies to start criminal investigations.

Article 4 of law 155/2005, as amended by decree law 7/2015 provides that law enforcement agencies (pursuant to an authorization issued by Judicial authorities or the Ministry of Justice) as well as Intelligence agencies (until 31.1.2016), upon the authorization issued by the Prosecutor General at the request of the Prime Minister, may run interviews in detention facilities with inmates that may provide relevant information to prevent the perpetration of a terrorist acts.. The National Anti-Mafia and Counter-Terrorism Attorney-General must be notified about the authorization.

The interviews are run without the assistance of a defense counsel, but they must be recorded.

FINANCING OF TERRORISM

Italy is fully aware of the importance to detect and disrupt the financial channels of terrorist individuals and groups. Misconduct such as financing of terrorist organizations, of travels for terrorism purposes and of terrorist acts have been criminalized (see above).

Individuals and entities listed by the "1267 Committee" analytical Support and Sanctions Monitoring Team as suspected terrorist financing may be subject also to financial preventive measures such as confiscation of assets deriving from

perpetration of crimes or whose value is deemed disproportionate to the legal incomes and may be used to finance terrorist acts (see above).

The framework for implementation of the UN Resolutions on the financing of terrorism has been elaborated within European Union:

- a) by EC Regulation 881/2002 of May 27, 2002 with regard to the implementation of United Nations Security Council resolutions 1267 (1999), 1333 (2000), 1390 (2002), 1452 (2002), 1455(2003), 1526 (2004) and 1617(2005) targeting specifically Al Qaeda and the Taliban, and
- b) by the position 931/2001 and EC Regulation 2580/2001 for the implementation of UN Security Council Resolution 1373 (2001).

In case of violation of freezing measures established by EC Regulations, administrative sanctions can be applied.

Financial intelligence unit (FIU). The FIU is an independent Government body with full autonomy, established by the Bank of Italy pursuant to Legislative Decree 231/2007 and operating under the supervision of the Ministry of Finance.

FIU is responsible for receiving, analyzing and disseminating to the competent authorities information on suspicious transactions concerning suspected terrorist financing;

- exchanging information with other FIUs;
- receiving and recording data concerning freezing of funds and any other information linked to designated persons and entities;
- monitoring the effective implementation of asset-freezing by financial institutions; and
- facilitating the dissemination of lists of designated persons and entities).

The FIU represents Italy in the Egmont Group and is also an active member of FIU.NET.

Italy is a member of the FATF-GAFI (Financial Action Task Force on Money-Laundering, Groupe d'Action Financière Internationale sur le Blanchiment de Capitaux), the inter-governmental body established in 1989 whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

The FATF has published a set of international standards (The Forty Recommendations against money laundering and the Nine Special Recommendations against terrorism financing). Italy is committed to their full endorsement and actively seeks worldwide compliance.

Italy is compliant with the former FATF Special Recommendation II (currently Recommendation 5). Legislative Decree No. 109/2007 contains measures to prevent abuse of the financial system for terrorist financing purposes and provides for the freezing of funds and economic resources for the fight against terrorism financing. Its article 1 broadens the definition of terrorist financing and explicitly includes the financing of individual terrorist acts. Pursuant to the new provisions of Decree Law No. 7, Legislative Decree No. 159/2011, on preventive measures, is applicable to those who finance terrorist offences, including at the international level.

Italy co-leads, together with the United States of America and Saudi Arabia, the Counter-ISIL Finance Group (CIFG). The Group includes more than 25 countries and organizations such as FATF, the European Union and the Gulf Cooperation Council. The main task of the CIFG is to develop effective multilateral tools to disrupt ISIL's economic base. In pursuing this objective, the Group promotes the implementation of existing obligations under the relevant Security Council resolutions, including resolutions 1267 (1999) and 1373 (2001) and focuses on those resolutions (e.g., resolutions 2170 (2014), 2178 (2014) and 2199 (2015)) that specifically target ISIL and other Al-Qaida associated groups in Iraq and Syria. The action of the CIFG takes also into account recommendations and resolutions adopted by FATF.

VICTIMS OF TERRORISM

Law 206/2004 provides financial compensation to victims of terrorist acts, as well as health and welfare benefits.

Law 212/2015 transposing into the National Legislation the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA provides to victims of crimes (including victims of terrorist acts) specific rights (such as the right to legal assistance, the rights to be informed about the outcomes of the enquiries) and safeguards during investigations and trials.

INSTITUTIONAL FRAMEWORK

Terrorist threats as well as dynamics related to money laundering and financing of terrorist acts and terrorist organizations are constantly monitored by intergovernmental bodies, such as the Financial Security Committee (FSC) and the Antiterrorism Strategic Analysis Committee.

The Financial Security Committee (FSC) coordinates policy and activities aimed at preventing the use of the country's financial and economic systems for money-laundering and terrorism-financing purposes and financing of the proliferation of weapons of mass destruction. It is chaired by the Director-General of the Treasury and includes representatives of 13 Government entities competent in the field of anti-money laundering and counter terrorism financing, including the Ministry of Economy and Finance, the Ministry of the Interior, the Ministry of Justice, the Ministry of Foreign Affairs and International Cooperation, the Bank of Italy, the National Commission for Companies and the Stock Exchange (CONSOB), the Institute for Insurance Supervision (IVASS), the financial intelligence unit (FIU), police forces and the National Anti-Mafia and Counter-Terrorism Attorney-General. Representatives of the intelligence agencies may also attend FSC meetings.

The Antiterrorism Strategic Analysis Committee (C.A.S.A. - hereinafter the Committee) was established on 6 May 2004, pursuant to a decree issued by the Ministry of the Interior.

Members of the Committee are:

- the Director general of the Prevention Police (presiding);
- high ranking officers of the main police forces (Carabinieri, Polizia di Stato, Guardia di Finanza and of the Department of the Ministry of Justice supervising the detention facilities¹),
- high ranking offices of the two Intelligence Agencies (AISI and AISE).

The Committee is a permanent body which is tasked to:

- assess the international and internal terrorist threats any relevant information regarding those threats;
- coordinate the police forces and the intelligence agencies;
- share the information provided with by the police forces and the intelligence agencies;
- support and enforce the decisions to be taken by the Government and Parliament.

C.A.S.A. analyses the information available, ensures the coordination between the intelligence agencies and police forces and provides with the necessary information the relevant agencies.

¹ Information on the threats and dynamics coming from detention facilities where alleged terrorist members are confined are deemed relevant.

The Committee thus analyzes and assesses the information about terrorist threats

- 1) being provided with by:
 - Police Forces;
 - Intelligence Agencies;
 - the Judiciary (under Authorization issued by the relevant Judicial Authority)
 - by foreign intelligence and/or law enforcement agencies;

or

- 2) coming from
 - specific direct threats;
 - sources, terrorist websites, terrorist communications and messages, detention facilities.

The Committee:

- disseminates the information collected to the relevant police forces;
- plans the action of the main Police Forces so that it is finalized to detect and monitor the terrorist threats:
 - a) by monitoring individuals under suspicion to be close to terrorist groups;
 - b) by monitoring individuals and groups under suspicion to finance terrorist groups;
 - c) by monitoring the dynamics of the detention facilities where members of terrorist groups are confined in order to detect and prevent any indoctrination and recruitment activity;
 - d) by monitoring the jihadist internet websites.

The committee attends also meetings with similar institutions operating in other E.U. Countries aimed at assessing the terrorist threat within E.U.

The Committee has dealt so far with the prompt assessment of threats against the Country following the main terrorist attacks that have been carried on in Europe.

The success of the activity of the Committee relies on a permanent coordination and consultation among its relevant members.

INTERNATIONAL CO-OPERATION

Measures at international level

European Union (Europol, EUROJUST and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), as well as with third

countries. Italy also participates in other relevant European Union counter-terrorism arrangements, including in the European Union plus Norway and Switzerland Police Working Group on Terrorism. As part of the European Union, Italy participates in the Council of the European Union Working Party on Terrorism (TWP), a specialist counter-terrorism group that, inter alia, facilitates exchange of intelligence, and in the Madrid Group (Committee of Counter-Terrorism Coordination Centres, CCCAT)

INTERPOL. Italy has been a member of INTERPOL since 1923. The Department of Public Security in the Ministry of the Interior includes the INTERPOL National Central Bureau (NCB), the Europol Office and the Sirene Office (responsible for the SIS encrypted virtual network).

The Directorate-General for Criminal Justice in the Ministry of Justice is the central authority for all mutual legal assistance and extradition requests, as well as for European Arrest Warrants. Outside the European Union framework, Italy relies on a comprehensive network of bilateral and multilateral agreements on MLA and extradition. In the absence of such an agreement, MLA in criminal matters takes place in accordance with the principle of reciprocity.

Italy ratified:

- the 1959 European Convention on Mutual Legal Assistance in Criminal Matters (ETS 20) and the 1978 Additional Protocol (ETS 099);
- the 2000 EU Convention on Judicial Assistance in Criminal Matters

The main EU framework decisions and directives on cooperation against serious crimes based on the principle of mutual recognition of judicial decisions were recently transposed into national legislation such as:

- Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member State,
- Council Framework Decision 2002/465/JHA on joint investigation teams,
- Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence,
- Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters.

Relevant Council of Europe conventions – Italy	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]	08/06/2005	21/02/2017
Council of Europe Convention on the Prevention of Terrorism [CETS No. 196]	08/06/2005	21/02/2017
Convention on Cybercrime [ETS No. 185]	23/11/2001	05/05/2008
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]	09/11/2011	No
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime [ETS No. 141]	08/11/1990	20/01/1994
European Convention on the Compensation of Victims of Violent Crimes [ETS No. 116]	No	No
European Convention on the Suppression of Terrorism [ETS No. 90]	27/01/1977	28/02/1986
Protocol amending the European Convention on the Suppression of Terrorism [ETS No. 190]	15/05/2003	21/02/2017
European Convention on the Transfer of Proceedings in Criminal Matters [ETS No. 73]	26/05/2000	No
European Convention on Mutual Assistance in Criminal Matters [ETS No. 30]	20/04/1959	23/08/1961
Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 99]	30/10/1980	26/11/1985
Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 182]	23/01/2013	No
European Convention on Extradition [ETS No. 24]	13/12/1957	06/08/1963
Additional Protocol to the European Convention on Extradition [ETS No. 86]	No	No
Second Additional Protocol to the European Convention on Extradition [ETS No. 98]	23/04/1980	23/01/1985
Third Additional Protocol to the European Convention on Extradition [CETS No. 209]	23/01/2013	No
Fourth Additional Protocol to the European Convention on Extradition [CETS No. 212]	23/01/2013	No

Relevant United Nations conventions – Italy	Signed	Ratified
Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963)	14/09/1963	18/10/1968
Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, 1970)	16/12/1970	19/02/1974
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971)	23/09/1971	19/02/1974
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1988)	24/02/1988	13/03/1990
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 1973)	30/12/1974	30/08/1985
International Convention against the Taking of Hostages (New York, 1979)	18/04/1980	20/03/1986
Convention on the Physical Protection of Nuclear Material (Vienna, 1979)	13/06/1980	06/09/1991
Amendment to the Convention on the Physical Protection of Nuclear Material (Vienna, 2005)	-	08/07/2015
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988)	-	26/01/1990
2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (London, 2005)	01/02/2007	No
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 1988)	-	26/01/1990
2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (London, 2005)	01/02/2007	No
Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1991)	-	26/09/2002
International Convention for the Suppression of Terrorist Bombings (New York, 1997)	04/03/1998	16/04/2003
International Convention for the Suppression of the Financing of Terrorism (New York, 1999)	13/01/2000	27/03/2003
International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 2005)	14/09/2005	21/10/2016