



FRANCE

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NATIONAL POLICY

A victim of international terrorism both at home and abroad, France has long shown its determination to combat terrorism in all its forms, regardless of who is responsible for it.

The terrorist threat has led it to introduce cohesive and specific laws and practical measures, and to work for closer international co-operation.

This determination was reaffirmed in the wake of the terrorist attacks of 11 September 2001 in the USA, which led to a strengthening of internal prevention and international co-operation, in accordance with Security Council Resolution 1373.

LEGAL FRAMEWORK

General information

France has progressively adopted specific anti-terrorist laws, the keystone being the law of 9 September 1986, which has been updated at regular intervals.¹

Since the attacks of 11 September 2001, the laws of 15 November 2001,² 18 March 2003,³ 9 March 2004,⁴ 23 January 2006,⁵ 21 December 2012,⁶ 13 November 2014,⁷ 24 July 2015,⁸ 3 June 2016,⁹ 21 July 2016,¹⁰ 28 February 2017¹¹ and 30 October 2017¹² have bolstered the basic legislation and procedural regulations.

First and foremost, the law of 23 March 2019¹³ instituted the National Anti-Terrorism Prosecution Service, headed by France's anti-terrorism prosecutor

at the Paris Regional Court. As well as terrorist offences under Article 706-16 of the Code of Criminal Procedure, this new national prosecution service is competent to prosecute cases relating to the proliferation of weapons of mass destruction and their means of delivery, crimes against humanity, war crimes and offences, torture committed by state authorities and enforced disappearance.

In general, it should be said that France's action against international terrorism respects human rights and public liberties.

The laws in question are in no sense emergency laws, but merely special laws containing derogations, of the kind already found in the legislation on economic and financial crime, or the legislation on organised crime, of which anti-terrorist law now forms part.

Apart from criminal law, which is the main legal weapon against terrorism, French anti-terrorist law also draws on civil and administrative law (interception for security reasons, refusal of admission, refusal of asylum, refusal of naturalisation, deprivation of rights, expulsion, removal, supervision of associations, combat groups and private militias, freezing of assets, ban on leaving the territory where there is a risk of participation in terrorist activities, blocking access to or delisting websites that incite or condone terrorism).

The French legal system has three major strengths when it comes to dealing with terrorism:

- special laws:

¹ Law No. 86-1020 of 9 September 1986 on action against terrorism.

² Law No. 2001-1062 of 15 November 2001 on everyday security.

³ Law No. 2003-239 of 18 March 2003 on internal security.

⁴ Law No. 2004-204 of 9 March 2004 bringing justice into line with new patterns of crime.

⁵ Law No. 2006-64 of 23 January 2006 on action against terrorism, containing various provisions on security and border checks.

⁶ Law No. 2012-1432 of 21 December 2012 on security and action against terrorism.

⁷ Law No. 2014-1353 strengthening the provisions on the fight against terrorism.

⁸ Law No. 2015-912 on intelligence.

⁹ Law No. 2016-731 introducing more rigorous measures to combat organised crime, terrorism and their financing and improving the effectiveness of and safeguards for criminal proceedings.

¹⁰ Law No. 2016-987 extending the application of Law No. 55-385 of 3 April 1955 on states of emergency and introducing more rigorous measures to combat terrorism.

¹¹ Law No. 2017-258 on public security once again made it an offence to habitually browse terrorist websites.

¹² Law No. 2017-1510 strengthening internal security and the fight against terrorism.

¹³ Law No. 2019-922 on programming for 2018-2022 and justice reform.

- stipulating fully detailed offences, including criminal association for the purpose of preparing terrorist acts, are the cornerstone of the system and make it possible to conduct criminal investigations at the earliest possible stage;

- specific procedural rules allowing for the use of special investigative techniques.

- judges specialising in terrorism: at all stages of the proceedings: prosecution, investigation and the enforcement of sentences; all cases concerning terrorism are centralised at the Paris Regional Court.

- and specialised intelligence and investigation services.

Criminal law

The legal definition of a terrorist act comprises two elements:

a) it is a crime or lesser indictable offence defined as such in the Criminal Code. These crimes and offences are listed in Article 421-1 of the Criminal Code. They are:

- wilful attacks on life;
- wilful attacks on integrity of the person;
- abduction, holding of persons against their will;
- hijacking of an aircraft, ship or other means of transport;
- theft, extortion, destruction, defacement of and damage to property;
- computer offences (as defined in Book III of the Criminal Code);
- offences involving disbanded combat groups and movements;
- offences involving firearms, explosives or nuclear substances;
- receiving the proceeds of one of the above offences;
- money laundering;
- insider trading offences;

b) the above crimes and lesser indictable offences are connected with an individual or collective operation whose aim is to seriously disturb public order through intimidation or terror, which is the distinguishing feature of terrorism.

Moreover, the law specifically punishes the following terrorist, or potentially terrorist, offences:

¹⁴ Articles 421-2 and 421-4 of the Criminal Code.

¹⁵ Articles 421-2-1 and 421-6 of the Criminal Code.

¹⁶ Article 421-6 of the Criminal Code.

¹⁷ Article 421-2-2 of the Criminal Code.

¹⁸ Articles L.564-1 et seq. of the Monetary and Financial Code.

¹⁹ Articles 422-6 of the Criminal Code.

- ecological terrorism,¹⁴
- conspiracy for the purpose of committing terrorist offences;¹⁵
- individual terrorist operation;¹⁶
- funding of a terrorist operation.¹⁷ Provision is also made for administrative freezing of the assets¹⁸ and, as an additional penalty, confiscation of all or part of the assets of terrorist offenders;¹⁹
- failure to account for resources on the part of any person habitually in close contact with one or more persons engaging in terrorist acts;²⁰
- direction and organisation of a criminal association for the purpose of preparing terrorist acts;²¹
- direct incitement to, and condoning of, terrorism, which are punishable offences under Article 421-2-5 of the Criminal Code;
- harbouring the perpetrators of a terrorist act;²²
- involvement of a minor, by a person with authority over them, in a terrorist organisation.²³

Procedural rules

Special procedural rules apply to terrorist offences:

During the investigation

- *Special police custody*
 - For all terrorist offences, police custody may be extended to 96 hours,²⁴ and this also applies to minors over the age of 16 (Article 4 of the Order of 2 February 1945) "*when there are one or more plausible reasons for suspecting that one or more adult persons have been involved, as perpetrators or accomplices, in committing the offence*";
 - **police custody** may be extended to six days if there is a serious danger that acts of terrorism are imminent in France or abroad, or the requirements of international co-operation make this essential;²⁵
 - **legal assistance**: the law of 14 April 2011 on police custody has made substantial changes to criminal procedure and has also had an impact on the rules governing legal assistance in cases involving terrorism.

²⁰ Article 421-2-3 of the Criminal Code.

²¹ Article 421-5, para. 2 of the Criminal Code.

²² Article 434-6 of the Criminal Code.

²³ Article 421-2-4-1 of the Criminal Code.

²⁴ Article 706-88 of the Code of Criminal Procedure.

²⁵ Article 706-88-1 of the Code of Criminal Procedure.

- The principle is that a person suspected of terrorism is **immediately** entitled to legal assistance.
 - Such assistance may not therefore be deferred, save in exceptional cases for compelling reasons relating to the particular circumstances of the investigation, or to facilitate the gathering or conservation of evidence, or to prevent any possible bodily harm. In such cases, access to a law may be deferred for a maximum of 72 hours.
 - Such assistance guarantees:
 - * the right to talk to a lawyer,
 - * the right for lawyers to consult certain documents concerning the proceedings,
 - * and the right for the person in custody to be assisted by a lawyer during hearings.
- *Special investigation techniques*
- These include:
- seizures and searches without the agreement of the persons concerned, *inter alia* at night, under a special authorisation system;²⁶
 - vehicle inspections and inspections and searches of bags;²⁷
 - the use of audiovisual recording equipment during the investigation and when information is being collected;
 - anonymous hearing of witnesses;
 - video surveillance;
 - surveillance throughout the national territory of persons suspected of committing terrorist acts, and of supplying or transporting objects, commodities or products derived from, or used to commit, such offences;²⁸
 - identity checks on transnational trains;²⁹
 - comparison of personal data collected in relation to passenger transport;
 - **infiltration** operations authorised by public prosecutors or investigating judges and designed to facilitate the disclosure of crimes without provoking them;³⁰
 - protection for special police officers investigating terrorist offences, who are allowed to identify themselves by their special service numbers;³¹
 - **interception of electronic correspondence** authorised by the liberties and detention judge in connection with expedited or preliminary police investigations for a period of one month, renewable once, on application by the public prosecutor;³²
 - **geolocation**, i.e. the use of any technical means intended to locate in real time, throughout the national territory, a person without their knowledge, a vehicle or any other object, without the consent of its owner or possessor;³³
 - the installation and use of a technical device known as an **"IMSI-Catcher"** to collect technical connection data for identifying terminal equipment or its user subscription number and also data relating to the location of terminal equipment;³⁴
 - the placing of **sound-recording and image-capture devices** in any public or private place or vehicle by order of the investigating judge, who must first consult the public prosecutor and obtain the consent of the liberties and detention judge, *inter alia* outside legal search hours and without the consent of the persons concerned;³⁵
 - the possibility for the prosecution service to involve the tax authorities, under Article 10B of the Tax Procedures Code, in investigations concerned with the funding of terrorism;
 - the possibility for the judicial authority concerned, with the prior approval of the Minister of Justice and the consent of the EU member state(s) concerned, to set up a **joint investigation team**;³⁶
 - payment of informers;³⁷
 - use of state technical facilities covered by the secrecy rules that apply in the national defence sphere to decode encrypted messages;³⁸
 - the **capturing of computer data**:³⁹ this is a new possibility introduced by the law of 14 March 2011 (referred to as LOPPSI 2). Initially limited in scope, this special investigation technique was extended by the legislation of 13 November 2014, 17 August 2015 and 3 June 2016 stepping up the fight against organised crime and terrorism. The aim is to give investigators the option of using technical means to capture, in real time, data used or processed on a computer but not yet disseminated. In the field of organised crime and terrorism, in addition to

²⁶ Articles 706-90 and 706-91 of the Code of Criminal Procedure.

²⁷ Article 78-2-2 of the Code of Criminal Procedure.

²⁸ Article 706-80 of the Code of Criminal Procedure.

²⁹ Article 78-2 of the Code of Criminal Procedure.

³⁰ Articles 706-81 to 706-87 of the Code of Criminal Procedure.

³¹ Article 706-24 of the Code of Criminal Procedure.

³² Article 706-95 of the Code of Criminal Procedure.

³³ Articles 230-32 to 230-44 of the Code of Criminal Procedure.

³⁴ Article 706-95-20 of the Code of Criminal Procedure.

³⁵ Articles 706-97 to 706-98 of the Code of Criminal Procedure.

³⁶ Articles 695-2 and 695-3 of the Code of Criminal Procedure.

³⁷ Article 15-1 of the law of 21 January 1995 on guidance and planning in connection with security.

³⁸ Articles 230-1 to 230-5 of the Code of Criminal Procedure.

³⁹ Articles 706-102-1 to 706-102-2 of the Code of Criminal Procedure.

the possibility of recording pictures of suspected criminals and what they say, investigators can, with the authorisation of the investigating judge, also have access to computer data concerning the suspects. Such data is captured "live". The aim is to enable investigators to collect information "at the source".

Cyber infiltration for all offences or crimes related to organised crime, when they are committed by means of digital communication: terrorist organisations make widespread use of the Internet, in particular as a tool for making threats and spreading propaganda.

With a view to increasing the effectiveness of measures to prevent the condoning of terrorism and incitement to terrorism, Article 706-25-2 of the Code of Criminal Procedure now authorises the relevant investigation services to:

- take part in electronic exchanges using a pseudonym;
- use this method to remain in contact with persons suspected of being the perpetrators of such offences;
- extract, acquire or conserve, by such means, evidence and information concerning persons suspected of being the perpetrators of such offences.

Special judicial treatment

- *Extension of the application of French law to include acts of terrorism which are lesser indictable offences committed by a French national or persons habitually resident in France*

- French courts have semi-universal powers under the anti-terrorist conventions to which France is a party and referred to in Articles 689-1 to 689-10 of the Code of Criminal Procedure, if the presumed terrorist is in France;

- in addition, French criminal law is applicable to crimes and lesser indictable offences classified as acts of terrorism committed abroad by a French national or an individual habitually resident in France,⁴⁰ making it possible to more effectively prosecute individuals having attended terrorist training camps abroad even though they have not committed any punishable acts on French territory;

- *The concurrent competence of the National Anti-Terrorism Prosecution Service and the Paris Regional Court to prosecute terrorist offences*

Since the introduction of the 1986 laws and the centralisation of proceedings in Paris, a specialised unit has been responsible for prosecuting, investigating and trying terrorist offences: the judges of the Paris Regional Court (investigating judges, juvenile and criminal court judges) and the judges in the National Anti-Terrorism Prosecution Service exercise jurisdiction not on exclusive basis but rather concurrently with that of France's other courts. Under the legislation, the National Anti-Terrorism Prosecution Service and the anti-terrorist investigating judges in Paris are entitled to exercise their powers throughout the national territory (Article 706-17 of the Code of Criminal Procedure).

In addition, adults and minors over the age of 16 accused of terrorist crimes are tried by a specially constituted court of professional judges (Article 706-25 of the Code of Criminal Procedure).

Where an offence is potentially terrorist in nature, all prosecutors' offices must approach the National Anti-Terrorism Prosecution Service so that it can assess whether it should take up the case.

This allows the Paris Regional Court to exercise de facto exclusive jurisdiction over the most serious terrorist crimes and offences (murder in connection with a terrorist operation, terrorist conspiracy, individual terrorist operation, etc.).

Since, however, the National Anti-Terrorism Prosecution Service is not designed to deal with all of these cases, but only the ones that have a potentially terrorist dimension at an advanced stage - in particular, by revealing behaviour that could eventually lead to a plan to commit an atrocity - the local courts continue to be the natural forum for investigating and trying - in constant liaison with the National Anti-Terrorism Prosecution Service - the offences of condoning terrorism, incitement to terrorism and deliberate obstruction of the blocking of jihadist websites.

The joint appointment of an economic and financial investigating judge and an anti-terrorist judge is provided for when the financing of terrorism, receiving, insider trading offences, money laundering in connection with a terrorist operation and failure to account for resources on the part of persons engaging in acts of terrorism are being investigated.⁴¹

- *Measures to facilitate judicial investigation*

These are:

- longer periods of detention on remand;⁴²

⁴⁰ Article 113-13 of the Criminal Code.

⁴¹ Article 706-17 of the Code of Criminal Procedure.

⁴² Articles 145-1 and 2 of the Code of Criminal Procedure.

- provision for the freezing of assets;⁴³
- the possibility of using the European arrest warrant;⁴⁴
- the possibility of using video conferencing facilities to hear witnesses, civil parties and experts, question suspects, and hold adversarial hearings on placement in detention on remand,⁴⁵ extension of detention on remand, or applications for release;⁴⁶
- a provision making it an offence, punishable by five years in prison, for persons involved or assisting in criminal proceedings to disclose to a third party information which may impede the investigations;⁴⁷
- the limitation periods for prosecution and serving of sentences are extended to 30 years for crimes, and 20 years for lesser indictable offences.⁴⁸

Updated, tightly controlled procedures for gathering intelligence

The purpose of Law No. 2015-912 of 24 July 2015 on intelligence is to create a coherent and comprehensive legal framework for the activities of the intelligence services. It thus provides for:

- amendments to the provisions relating to the use of interception for security reasons and access to connection data;
- the creation of a legal framework for the use of certain intelligence gathering techniques;
- the real-time collection of information on a person pre-identified as presenting a threat;
- detection of "weak signals";
- the use of IMSI CATCHERS;
- tagging;
- sound recording, image capture and computer data capture, including in a vehicle or private location.

The use of these intelligence techniques is tightly regulated thanks to the introduction of a general system of authorisation (with authorisation to be granted by the Prime Minister after consulting the National Commission for the Control of Intelligence Techniques - CNCTR), the creation of an independent regulator (the CNCTR) with extended powers (ex ante and ex post oversight), the introduction of a more robust system of a posteriori review, including judicial review, and the setting of maximum periods for the retention of the information gathered.

Co-ordination between the administrative and judicial spheres thus rests on a strict delimitation of their respective boundaries, based on the different intended purposes: the administrative authority is responsible for preventing serious offences from occurring in the first place, while the judiciary is responsible for bringing perpetrators to justice once the first preparatory acts have been committed.⁴⁹

Other relevant legislation

(Witness protection, victim support, prevention of financing of terrorism, countering violent extremism and radicalisation, other)

- *Protection for persons who have helped to stop terrorist offences from being committed*

Protection and reintegration measures⁵⁰ have been put in place for offenders, collaborators of justice, who co-operate with the police and help them to prevent acts of terrorism, put a stop to or mitigate the damage caused, or to identify perpetrators or accomplices; if necessary, such persons may be authorised to use false identities. Protection also applies to family members and personal associates.

- *The granting of exemptions or reduced sentences to persons who perpetrate or are accomplices to acts of terrorism prior to their sentencing (suspects who assist the police in their enquiries)*

Exemptions and reduced sentences are granted to perpetrators of or accomplices to terrorist offences, who, by informing the administrative or judicial authorities, have helped prevent the terrorist offence, identify other perpetrators, or have helped put a stop to criminal activities or prevent the terrorist offence from leading to death or disability. Exemptions and reduced sentences for suspects who assist the police in their enquiries are provided for in Articles 132-78 of the French Criminal Code (CC). They may be applied to offences expressly stipulated in the law, including acts of terrorism (422-1 and 422-2 CC).

- *Sentence reduction for convicted persons who help to stop or prevent terrorist offences*

Enforcement judges may grant special sentence reductions to convicted persons who make statements, before or after conviction,⁵¹ concerning the offences listed in Articles 706-73 and 706-74 of

⁴³ Articles 706-103 of the Code of Criminal Procedure.

⁴⁴ Articles 695-11 to 695-15 of the Code of Criminal Procedure.

⁴⁵ Article 706-71 of the Code of Criminal Procedure.

⁴⁶ Only in the case of persons held on another ground.

⁴⁷ Article 434-7-2 of the Criminal Code.

⁴⁸ Articles 7 and 8 of the Code of Criminal Procedure.

⁴⁹ See [Constitutional Council decision no. 2015-713 DC of 23 July 2015](#)

⁵⁰ Articles 132-78 of the Criminal Code and 706-63-1 et seq. of the Code of Criminal Procedure.

⁵¹ Article 721-3 of the Code of Criminal Procedure.

the Code of Criminal Procedure (including crimes and lesser indictable offences constituting acts of terrorism covered by Articles 421-1 to 421-6 CC) and so help to stop or prevent them.

- *Special compensation for victims of acts of terrorism*

A special scheme to compensate victims of acts of terrorism, via the **Guarantee Fund for Victims of Acts of Terrorism and other Offences** (Fonds de garantie des victimes d'actes de terrorisme et d'autres infractions - F.G.T.I.)⁵² was introduced in 1986.⁵³

Regardless of their nationality, victims of terrorist attacks committed in France are entitled to compensation; French nationals habitually resident in France, or residing elsewhere and registered with the consular authorities, are also covered when terrorist acts are committed abroad.

Compensation covers all physical injuries and, in the case of deceased persons, non-pecuniary and economic damage suffered by their beneficiaries. Any person who considers themselves the victim of an act of terrorism may apply directly to the F.G.T.I. for compensation. The procedure is amicable, with compensation determined and paid by the F.G.T.I. by agreement with the victims.

As a member of the interministerial public information and support unit (C2IPAV), the F.G.T.I. is informed in real time of the identity of victims who are injured or in shock and have been admitted to health care facilities. The F.G.T.I. can then arrange for one or more provisional payments to be made to such persons.

The law of 23 March 2019 on programming for 2018-2022 and justice reform simplified the compensation procedure for victims of terrorism by granting exclusive jurisdiction to the civil judge at the Paris court to deal with disputes over compensation for damage.⁵⁴ Up until then, the procedure for victims seeking redress for harm suffered had been extremely complex, often following on from criminal proceedings and involving multiple actors. The new legislation has helped to speed up the processing of claims, as it seeks to avoid overburdening investigating judges and delaying the criminal trial.

Law No. 2020-1672 of 24 December 2020 also added a new Article 706-14-2 to the Code of Criminal Procedure to allow victims to claim financial assistance from the F.G.T.I. to cover travel expenses, an allowance for attending court and a daily subsistence allowance if they are summoned to attend a criminal trial in another country.

- *Law of 9 July 2010: rules governing the seizure and confiscation of criminal proceeds and the setting-up of a national agency*

The law of 9 July 2010 aimed at facilitating the seizure and confiscation of criminal proceeds led to the setting-up of the agency responsible for the management and recovery of criminal proceeds (AGRASC), whose purpose is to ensure the management of criminal proceeds in cases which sometimes involve complex administrative procedures (boats, buildings, goodwill, shares, etc.).

The Agency was thus designed to assist the courts, mainly with a view to relieving them of the burden of such work or sometimes simply helping them manage such assets. The aim is to improve the way in which criminal proceeds, in particular those relating to organised crime and terrorism, are seized and confiscated.

- *Financing of terrorism*

The national ML/FT risk analysis published in September 2019 notes that, as a result of the setbacks suffered by Islamic State, funding the upkeep of fighters still in the area has replaced funding departures to the Iraqi-Syrian zone.

It is mainly a case of micro-financing, the details of which do not change much. The source of the funds may be legal or illegal (fraud, etc.) and the revenue streams fall into three broad categories: networks of fund raisers based mostly in Lebanon and Turkey, occasional use of the voluntary sector, with risk concentrated in certain types of organisations, and the use of innovative financing methods. In addition to the use of prepaid cards, it has recently been observed that terrorism is being financed through cryptocurrency transactions.

These new challenges have led the National Anti-Terrorism Prosecution Service to adapt its criminal

⁵² The F.G.T.I. is financed from a levy on property insurance policies; its resources are supplemented by repayments which the Fund obtains from offenders and, since the adoption of the law of 15 November 2001 providing for freezing of the assets and confiscation of the property of terrorists as an additional penalty, from the proceeds of financing or property sanctions imposed on terrorists (Article 422-7 of the Criminal Code).

⁵³ Articles 706-3 to 706-14 of the Code of Criminal Procedure and Articles L 126-1 and 2 of the Insurance Code.

⁵⁴ Article L.217-6 of the Judicial Organisation Code: the Paris court ruling in civil matters thus has jurisdiction to hear all disputes relating to compensation for damage suffered by victims of terrorism, whether they be appeals against decisions of the F.G.T.I. or claims for compensation against the perpetrators.

policy in this area and to identify new ways to work with the investigation services and with TRACFIN.⁵⁵

In response to these findings, France has twice tightened up its rules on crypto assets, with the result that they are now among the most stringent in the European Union. Under Order No. 2020-1544 of 9 December 2020 strengthening the AML/CFT framework applicable to digital assets, all digital assets service providers are now subject to AML/CFT obligations. This covers the trading of cryptocurrencies among themselves, or against crypto assets (Article L561-2 7^e bis of the Monetary and Financial Code and 1^o to 4^o of Article L. 54-10-2).

Decree No. 2021-387 of 2 April 2021 - Art. 1 (Article R 561-10 II- 5^e of the Monetary and Financial Code, which entered into force on 1 May 2021) prohibits anonymity in digital assets transactions, irrespective of the amount, thereby going beyond the FATF recommendations.

Detection of funding streams connected with these terrorist activities is usually done using "weak signals", described in the guidelines issued to professionals subject to AML/CFT obligations.

At the same time, analysis of terrorist attacks carried out in France since 2012 indicates extensive use of self-financing, encouraged by jihadist propaganda spread by Islamic State and Al-Qaeda.

Until Law No. 2001-1062 of 15 November 2001 on everyday security which made it possible for it to be prosecuted as a separate offence, the financing of terrorism was dealt with through terrorist conspiracy or aiding and abetting terrorism.

There is no requirement here to provide evidence of the individual offence which is to be financed: it merely has to be shown that the funds will be injected into the terrorist economy in order to contribute to the financing of a terrorist activity, at whatever stage of the criminal process it occurs.

While the principle of specialisation now requires that, where possible, acts must be so classified as to enable terrorist financing offences to be specifically dealt with through the offence provided for in Article 421-2-2 CC, the Court of Cassation has ruled that the offences of terrorist conspiracy and financing of terrorism may be charged cumulatively if the

behaviours identified were distinct from one another.⁵⁶

The financing of terrorism can also be dealt with through various ordinary property offences committed in connection with a terrorist operation, such as theft, extortion or receiving the proceeds of these offences which are referred to in Article 421-1 of the Criminal Code.

This article was also supplemented by Law No. 2001-1062 of 15 November 2001 which added money laundering and insider trading to the list of offences that could be classified as "terrorist".

Similarly, the legislator wished to specifically criminalise failure to account for resources on the part of any person habitually in close contact with one or more persons engaging in terrorist acts.⁵⁷

According to the FATF (Financial Action Task Force), some of Islamic State's revenue was derived from selling looted items and taxing traffickers moving works of art through IS-held territory.

While numerous international instruments prohibit looting and trafficking in stolen art, they do not include any sanctions for those who flout the ban and do not cover every area where terrorist operations are carried out.

In order to better combat trafficking of this kind, Law No. 2016-731 of 3 June 2016 introduced a new offence into the Criminal Code, punishing the import, export, transit, transport, possession, sale, acquisition or exchange of a cultural object of archaeological, artistic, historical or scientific interest, if performed in the knowledge that the object had been removed from a territory which, at the time of the removal, constituted a theatre of operations of terrorist groups and without being able to prove the lawfulness of the object's origin.⁵⁸

- *Countering terrorist and violent extremist content online*

Article 421-2-5 of the Criminal Code which was introduced by the law of 13 November 2014 strengthening the provisions on the fight against terrorism makes it an offence to **directly incite acts of terrorism or to publicly condone such acts**. These offences were removed from the freedom of the press legislation of 29 July 1881 and inserted into the Criminal Code, a move that led to a change in the statute of limitations and paved the way for the use of certain investigative techniques and the application of the ordinary rules governing prosecutions.

⁵⁵ *Traitement du renseignement et action contre les circuits financiers clandestins*: intelligence agency which is a unit of the French Ministry of the Economy, Finance and the Recovery.

⁵⁶ Cass. crim, 21 May 2014 and Cass.crim, 18 February 2015

⁵⁷ Article 421-2-3 of the Criminal Code

⁵⁸ Article 322-3-2 of the Criminal Code.

Law No. 2017-86 of 27 January 2017 on equality and citizenship⁵⁹ amended several provisions of the Criminal Code, the Code of Criminal Procedure and the law of 29 July 1881 on freedom of the press, primarily with the aim of facilitating prosecutions and better tackling discrimination, racism and homophobia.

Although Internet service providers and hosts do not have a general monitoring obligation, since the law of 21 June 2004 on confidence in the digital economy (LCEN), they do have a special obligation to help combat the dissemination of messages or images that constitute incitement to commit acts of terrorism or condoning such acts. They are thus required to put in place a system so that anyone can alert them to the existence of websites or web pages inciting the commission of these offences, to inform the authorities immediately if they receive such a report and to make public the resources they devote to combating websites inciting users to commit offences of this kind.

The administrative authority may request service providers and hosts to remove illegal content. Should they fail to do so, the administrative authority may ask Internet service providers to block access to sites that incite or condone terrorism. It may also ask for them to be delisted.

In addition, on the basis of Article 706-23 of the Code of Criminal Procedure, the interim relief judge may order the suspension of an online public communication service for inciting or condoning terrorism if it constitutes a manifestly unlawful infringement. The matter can be referred to the urgent applications judge by the public prosecutor or any private individual or legal entity with a legitimate interest.

Interference with these measures is a punishable offence.

Following the circular issued by the Minister of Justice on 24 November 2020 on the fight against online hate, a **specialised unit** has been set up at the Paris Regional Court to centralise especially complex cases of this type.

In France, no single service is responsible for punishing terrorism. Action against terrorism relies on the efforts of all the various agencies that can help to prevent and combat it.

The relevant legal proceedings are, however, handled centrally at the Paris Regional Court. The judicial authorities comprise judges specialising in the prevention of terrorism: the prosecuting authorities, an investigating unit, panels of judges which specialise in trying terrorist crimes and offences, and a judge responsible for the enforcement of sentences.

Within the **Ministry of the Interior**, the **General Directorate for Internal Security** (Direction générale de la sécurité intérieure - DGSI), successor since 30 April 2014 to the Central Domestic Intelligence Directorate (DCRI), has two roles: the administrative role of monitoring the conduct of suspect persons or groups and a judicial role when judges are conducting investigations in criminal proceedings.

The Central Directorate of the Criminal Police (DCPJ) also conducts numerous investigations through its National Anti-Terrorist Division (DNAT), now known as the SDAT (anti-terrorist subdirectorate). Cases can also be referred to one of its specialised central offices if financial crime is involved.

The Anti-Terrorist Co-ordination Unit (Unité de coordination de la lutte antiterroriste - UCLAT) centralises information provided by the various services which come under the Ministry of the Interior, the Ministry of Defence, or the Ministry of the Economy, Finance and Industry. The UCLAT also exchanges information regularly with the judiciary.

The police's RAID (Research, Assistance, Intervention and Deterrence) unit is always available to help the DGPN in emergencies.

The border police (Police aux frontières - PAF) monitor suspect arrivals and departures. The Paris police have specialised administrative and criminal police units.

The National Gendarmerie, which comes under the direction of the Minister of the Interior, contributes to action against terrorism through its extensive coverage of the national territory and its ability to mobilise various judicial services, which are co-ordinated by the Anti-Terrorist Office in its General Directorate.

⁵⁹ The law rewrote Articles 132-76 and 132-77 of the Criminal Code, which defined the aggravating circumstance of racism and homophobia applicable to certain offences provided for by law, in order to

- extend these aggravating circumstances to all crimes or offences punishable by imprisonment,
- provide for a new general aggravating circumstance of sexism.

Within the **Ministry of Defence**, the Directorate General of External Security (Direction générale de la sécurité extérieure - DGSE) plays a vital role by supplying information gathered outside France. The Directorate of Military Intelligence (Direction du renseignement militaire - DRM) has facilities for detection (including satellite surveillance) and analysis.

By virtue of its military powers, particularly in connection with external operations, the National Gendarmerie also plays an important role. Moreover, its Security and Action Group (GSIGN) is in a permanent state of readiness to move against terrorists.

Lastly, the Directorate of Defence, Protection and Security (Direction de la protection et de la sécurité de la défense - DPSD) protects defence-sector personnel and facilities in the broad sense (state and industry) against terrorism.

Several departments in the **Ministry of Economics, Finance and Industry** are also involved in fighting terrorism. The National Directorate of Intelligence and Customs Investigations (Direction nationale du renseignement et des enquêtes douanières - DNRED) collects and analyses and circulates customs information on the funding of terrorism. The TRACFIN (Traitement du renseignement et action contre les circuits financiers clandestins) unit processes and analyses suspicious transaction reports received from professionals subject to FML/CFT obligations. It collects data, compares them with data from other ministries, and, if necessary, passes its findings on to the courts.

INTERNATIONAL CO-OPERATION

Mutual legal assistance and extradition

France can provide mutual assistance with criminal investigations concerning terrorism under bilateral or multilateral conventions or, if there are no conventions, on a reciprocal basis under French law. Multilateral instruments which France has accepted include the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and its two additional protocols. As regards mutual assistance between member states of the European Union, it applies Directive 2014/41/EU of the Parliament and of the Council on the European

Investigation Order, which entered into force on 22 May 2017.⁶⁰ As regards bilateral instruments, France is bound by some 50 agreements on mutual assistance in criminal matters to date.

Extradition in France does not depend on the existence of a treaty since, if there is none, French law permits extradition on a reciprocal basis. France is also party to the European Convention on Extradition of 13 December 1957, some 50 bilateral treaties, and the European Convention for the Suppression of Terrorism of 27 January 1977, which facilitates the extradition of perpetrators of acts of terrorism. Lastly, the Framework Decision "on the European arrest warrant and the surrender procedures between Member States", adopted by the Council of the European Union on 13 June 2002⁶¹ and incorporated into French law by the Law of 9 March 2004,⁶² has established an exclusively judicial surrender procedure based on mutual recognition of court decisions, which helps to strengthen judicial co-operation, particularly on action against terrorism.

Measures at international level

(Regional co-operation, United Nations, European Union, Council of Europe, international, multilateral, bilateral conventions on terrorism)

United Nations

France supports the action taken against terrorism by the United Nations. The resolutions adopted in the wake of September 11 paved the way for permanently closer international co-operation against terrorism, which must be accompanied by dialogue and assistance for states, and to which France is ready to contribute both bilaterally and multilaterally.

France has signed and ratified, or acceded to, eighteen of the nineteen UN anti-terrorist conventions. It attaches special importance to implementation of the International Convention for the Suppression of the Financing of Terrorism, which provides a comprehensive and effective solution in terms of both prevention and punishment. It is also very much engaged in the fight against terrorist financing and encouraged the adoption of the United Nations Security Council Resolution 2462 in 2019.

France is actively involved in the renewal of the United Nations Global Counter-Terrorism Strategy,

⁶⁰ The directive was incorporated into French law by Order No. 2016-1636 of 1 December 2016 and Decree No. 2017-511 of 7 April 2017.

⁶¹ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

⁶² Law No. 2004-204 of 9 March 2004 bringing justice into line with new patterns of crime.

which will provide the framework for UN action to combat terrorism over the period 2021-23.

G8 and G7

France chaired the G8 in 2003 and the fight against terrorism was high on its agenda. The Evian Summit, for example, adopted an action plan to strengthen political determination and further develop the capacity to fight terrorism at international level. The purpose of the plan was to ensure consistency in terms of the technical assistance offered, strengthen the role and facilitate the action of the UN's Counter-Terrorism Committee and mobilise the relevant international organisations.

France also chaired the G8 in 2011, reiterating at the Paris Summit that the fight against terrorism was a priority issue.

In line with the message it sought to convey when chairing the G8, France believes that terrorism, being a global threat, requires a global response and global co-operation.

Technical assistance is therefore a necessary adjunct to the international community's standard-setting work at the UN.

France chaired the G7 in April 2019, and the final declaration acknowledges the persistent threat posed by Daech and Al-Qaeda and calls for action to counter the use of the Internet for terrorist purposes (commitments to remove terrorist content in less than an hour), to prevent the movement of foreign terrorist fighters (widespread use of Advance Passenger Information (PNR) data in transport, prosecution of former fighters, support for their children, etc.), to step up action to combat terrorist financing (effective implementation of UN Security Council resolutions and in particular resolution 2462, adopted at the instigation of France, together with FATF standards) and to strengthen the international framework against these threats (support for the UNTOC, renewal of the United Nations Global Counter-Terrorism Strategy).

Measures adopted within the framework of the European Union

The European Union adopted Directive 2017/541 on 15 March 2017 on combatting terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.

The French legislation applicable at the time of the entry into force of the EU Directive 2017/541 was already fully in line with the directive.

In addition, France actively co-operates within the EU framework on the fight against terrorism.

For example, France has signed and ratified, or acceded to, eighteen of the nineteen UN anti-terrorist conventions. It attaches special importance to implementation of the International Convention for the Suppression of the Financing of Terrorism, which provides a comprehensive and effective solution in terms of both prevention and punishment. It is also very much engaged in the fight against terrorist financing and encouraged the adoption of the United Nations Security Council Resolution 2462 in 2019.

France is actively involved in the renewal of the United Nations Global Counter-Terrorism Strategy, which will provide the framework for UN action to combat terrorism over the period 2021-23.

In addition, following a policy initiative by France, the Council of the European Union adopted on 16 March 2021 a regulation on combating the dissemination of terrorist content online which will make it possible, from 2022 onwards, to compel internet platforms to remove terrorist content or block access to it within one hour.

With more specific reference to action against the financing of terrorism, and in accordance with its legal obligations within the EU,⁶³ France is taking steps to ensure that funds, financial assets and economic resources are not made available to, or used for the benefit of, persons, groups or entities involved in terrorism.

⁶³ Council Regulation No. 2580/2001 of 27 December 2001.

Relevant Council of Europe conventions – France	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]	05/07/1991	08/10/1996
Council of Europe Convention on the Prevention of Terrorism [CETS No. 196]	22/05/2006	29/04/2008
Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism [CETS No. 217]	22/10/2015	12/10/2017
Convention on Cybercrime [ETS No. 185]	23/11/2001	10/01/2006
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]	28/01/2003	10/01/2006
European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime [ETS No. 141]	05/07/1991	08/10/1996
Council of Europe Convention on the Compensation of Victims of Violent Crimes [ETS No. 116]	24/11/1983	01/02/1990
European Convention on the Suppression of Terrorism [ETS No. 90]	27/01/1977	21/09/1987
Protocol amending the European Convention on the Suppression of Terrorism [ETS No. 190]	15/05/2003	09/01/2008
European Convention on the Transfer of Proceedings in Criminal Matters [ETS No. 73]	-	-
European Convention on Mutual Assistance in Criminal Matters [ETS No. 30]	28/04/1961	23/05/1967
Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 99]	08/11/2001	06/02/2012
Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 182]	08/11/2001	06/02/2012
European Convention on Extradition [ETS No. 24]	13/12/1957	10/02/1986
Additional Protocol to the European Convention on Extradition [ETS No. 86]	-	-
Second Additional Protocol to the European Convention on Extradition [ETS No. 98]	02/10/2018	-
Third Additional Protocol to the European Convention on Extradition [CETS No. 209]	02/10/2018	-
Fourth Additional Protocol to the European Convention on Extradition [CETS No. 212]	02/10/2018	-

Relevant United Nations conventions – France	Signed	Ratified
Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963)	11 July 1969	11 September 1970
Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, 1970)	8 January 1971	15 December 1971
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971)	/	30 June 1976 (a)
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)	29 March 1988	6 October 1989
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 1973)	/	26 August 2003
International Convention against the Taking of Hostages (New York, 1979)	/	9 June 2000
Convention on the Physical Protection of Nuclear Material (Vienna, 1979)	13 June 1980	6 October 1991
Amendment to the Convention on the Physical Protection of Nuclear Material (Vienna, 2005)	/	8 May 2016
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988)	10 March 1988	2 December 1991
Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (London, 2005)	14 February 2006	9 May 2018
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 1988)	10 March 1988	2 December 1991
2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (London, 2005)	14 October 2005	9 May 2018
Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1991)	1 March 1991	25 May 1997
International Convention for the Suppression of Terrorist Bombings (New York, 1997)	12 July 1998	19 August 1999
International Convention for the Suppression of the Financing of Terrorism (New York, 1999)	10 January 2000	7 January 2002

International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 2005)	14 September 2005	11 September 2013
Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (2010)	15 April 2014	15 December 2016
Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (2010)	15 April 2014	15 December 2016
Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft (2014)	30 May 2016	-