



ALBANIA

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NATIONAL POLICY

Terrorism, in all forms and manifestations, constitute one of the most serious threats to international peace and security. It is at present and will remain, one of the most serious threats to peace, stability, national and international security. For this reason, the Republic of Albania considers terrorism as one of the priorities on its political agenda, taking part in the coalition which has been fighting terrorism since 9/11 around the world.

The Albanian counter-terrorism policy is guided by respect for human rights, effective law enforcement and full international co-operation. The Republic of Albania fosters links and maintains dialogue among the various communities in Albania in order to further integration and prevent conflicts from arising on ethnic or religious basis, firmly believing that terrorism cannot and should not be associated with any religion, nationality or civilization.

Albania is committed to serve the goal of national and international security and to contribute to sustainable peace and stability worldwide. Nowadays, the prevention and combating of terrorism comprises a strategic national priority – and to this end, the Government of Albania has pursued the development and consolidation of the legal and institutional framework – by fine-tuning domestic legislative instruments to the evolving anti-terrorism international *acquis*, by strengthening domestic institutional mechanisms and enhancing resources at their disposal, and by investing in regional and international partnerships and initiatives in the fight against terrorism.

Alongside commitments related to the Council of Europe, UN and OSCE frameworks, Albania's counter-terrorism portfolio includes engagements in the NATO framework, as well as cooperation terrorism-related initiatives of sub-regional partnerships such as the South-East Cooperation Process (SECI), the Organization of the Black Sea Cooperation (BSEC), the Adriatic and Ionian Initiative (AII), the Central European Initiative (CEI) and the South-Eastern European Cooperation Process (SEECPC).

The Government of Albania is among the first countries to respond to the international effort to counter ISIL, as a challenge which will require a long-term engagement of the international community. In this framework, Albania has been at the forefront of the international effort to stop the flow of foreign fighters in Western Balkan, by taking concrete, legislative, administrative and security measures, adopting specific laws, punishing the act of participating into conflicts and wars in other countries.

Security threats have dramatically evolved in the 21st century and are not confined to national boundaries any longer. To respond to this transnational threat, Albania takes measures, as appropriate, in compliance with its obligations under the domestic law and international law, affirming the need to combat the terrorism by all means. Being aware that the terrorism threat has become more diffused and increased in various regions of the world, including terrorist acts motivated by intolerance or extremism, Albania stands ready to further contribute to international efforts in strengthening peace, stability and cooperation among nations.

LEGAL FRAMEWORK

Penal law

In the fight against terrorism, the general provisions of Albania's legal framework are established to prevent and punish all kinds of crime, including terrorism. In accordance with the legislation of Albania, the legal provisions for the fight against terrorism are incorporated in penal law. Albania's Criminal Code has been undergoing reform since 2001. The new provision is amended in order to incorporate criminal offenses. Article 28/2 is amended as follows: a terrorist organization is a special form of criminal organization, composed of two or more persons who have a sustainable collaboration in time with the aim of committing terrorist acts with a purpose¹. Chapter VII of the Criminal Code contains more than 17 articles after the amendment. They express all the forms of

¹ Article 28/2 of Albanian Criminal Code.

terrorism, including: offenses with terrorist purposes, terrorist organizations, financing of terrorism, collecting funds for the financing of terrorism, recruitment of one or more persons for committing acts for terrorist purposes or terrorism financing, training for committing terrorist acts, promotion, public and calling propaganda for the execution of activities and threats for the purposes of conducting terrorist acts, etc. Article 230 of the Criminal Code is amended and defines offenses with terrorist purposes. It is punishable by imprisonment not less than fifteen years of life imprisonment, the conduct of the following offenses with the aim of spreading panic to the population or constrain state bodies, Albanian or foreign, to perform or not perform a particular act, to destroy or destabilize seriously, fundamental political structures, constitutional, economic or social Albanian state, of another state, international institution or organization. Acts with terrorist purposes include but are not limited to:

- a) acts against persons, which may cause death or serious injury,
- b) kidnapping of a person,
- c) serious destruction of public property, public infrastructure, transport system, information system, fixed continental platforms, private property at large, endangering the lives of persons, hijacking of aircrafts, ships or other transport means,
- d) manufacture, retain, purchase, transport or trade of explosives, firearms, biological, chemical, nuclear weapons and research for the production of the above mentioned weapons of mass destruction,
- e) spreading in the environment of hazardous substances and causing fires, flooding or blast in order to endanger persons' life or causing serious financial damage,
- f) causing the interruption of water supplies, electricity or any other important source.

Article 230/a deals with the financing of terrorism or its support in any other way, which is punishable by no less than fifteen years' imprisonment or by life imprisonment and a fine of 5 to 10 million ALL².

Article 230/b deals with hiding of funds and other goods used to finance terrorism. This is punished by four to twelve years of imprisonment and by a fine. The transfer, conversion, concealment, movement or laundering of funds and of other goods is subject to measures against terrorism

² Albanian Currency: lek (ALL).

financing. Under paragraph 2 of this Article, when this crime is committed during the exercise of a professional activity or where the offence has been committed more than once, it is punished by seven to fifteen years of imprisonment and by a fine; where it causes serious consequences, it is punished by no less than fifteen years of imprisonment and by a fine.

The act of supporting or giving information to persons who are undergoing identity verification checks or his/her funds and other goods are being subject of investigation are subject to measures against terrorist financing and where this activity is carried out by persons holding public office or persons on duty or in the exercise of their professional duties, is defined in Article 230/c.

According to Article 230/d, the collecting of financial tools of any kind - directly or indirectly - to finance the execution of criminal activities or those for terrorist purposes, is punished by imprisonment of four to twelve years and a fine of six hundred thousand to six million ALL.

Terrorist financing offenses are also incorporated in Article 230/ç which deals with giving funds and other wealth and performance of financial services and other transaction for identified persons to whom measures against terrorist financing are applied.

In relation with the Council of Europe Convention on Prevention of Terrorism, new amendments have been incorporated into Albanian Criminal Code³. These new provisions are in Article 231 which stipulates: "recruitment of one or more persons for the purpose of committing terrorist acts or terrorist financing, even when these acts go against another state, institution or international organization, if not constituting another criminal offense, is punishable by imprisonment not less than ten years⁴. Also Article 232 is amended as follows: "preparation, exercising and guidance in any form of instructions or even anonymously in electronic way for the production or use of explosive substances, firearms and military munitions, other weapons and chemical, bacteriological, nuclear or any other methods for carrying out terrorist acts with purpose and participation in such activities, even when these acts directed against another state, institution or international organisation, if not constituting another criminal offense, is punishable by imprisonment of not less than seven years⁵.

³ Law No.9686 from 26.02.2007.

⁴ Article 231 of the Criminal Code.

⁵ Article 232 of the Criminal Code.

Article 232 concerns delivering dangerous substances. Following Article 232, Article 232/a has been added. It provides that promotion, public call, distribution of articles or other forms of propaganda, which aims at supporting or performing one or more acts with terrorist purposes and financing of terrorism. These acts, if they do not constitute another criminal offense, are punishable under this Article by four to ten years of imprisonment⁶. A serious threat for the purposes of committing terrorist acts toward a public authority, even of another state, institution or international organisation is punishable by imprisonment of eight to fifteen years as defined in Article 232/b⁷.

Articles 233 to 234 of the Albanian Criminal Code define terrorist crimes in relation to producing military weapons such as chemical, biological, nuclear weapons etc. and the establishment, organisation, leading and financing of armed gang. As mentioned before, besides individual acts, the Albanian Criminal Code sanctions terrorist organisations⁸.

Article 234/a defines terrorist organisations as one of the most sophisticated offenses in two ways: firstly, the establishment, organisation, leading and financing of terrorist organisations, which is punishable by imprisonment of no less than 15 years; and secondly, participation in a terrorist organisation, which is punishable from seven to fifteen years imprisonment⁹.

Jurisdiction

According to Article 6 of the Criminal Code, the criminal law is applicable to all crimes committed by Albanian citizens on the territory of the Republic of Albania. The Code is also applicable to offences committed within the territory of another country by Albanian citizens, where that is concurrently punishable, unless a foreign court has given a final sentence¹⁰.

According to Article 7 of the Criminal Code, the law is applicable to criminal acts committed by foreign citizens. Furthermore, the law is applicable to foreign citizens who commit criminal acts within and outside of Albania involving one of the following offences against the interests of the Albanian State or Albanian citizens: crimes against humanity, Albanian independence and its

constitutional order; terrorism; hijacking of airplanes or ships etc.¹¹.

In the amended Albanian Criminal Code, the concept of universal jurisdiction, which has not been foreseen before, is provided for in Article 7/a. According to this Article, the penal law of the Republic of Albania is applicable to foreigners located on the territory of the Republic of Albania and their extradition is forbidden if they committed one of following actions outside the territory of the Republic of Albania: crimes against humanity, war crimes, genocide, works with terrorist purposes or torture. The Criminal Law of the Republic of Albania is also applicable to foreign citizen who committed outside the territory of Republic of Albania any offenses for which special laws or international agreements where the Republic of Albania is a party, determine the viability of Albanian criminal legislation¹².

In Albania, extradition may be permitted only when explicitly provided for by international treaties to which Albania is a party. Albania is a party to most of the relevant international treaties and conventions. Extradition shall not be granted: if the person to be extradited is an Albanian citizen, unless otherwise provided for by the treaty; if the criminal act constituting the object of the request for extradition is of a political or military nature; where there are reasonable grounds to believe that the person requested to be extradited will be prosecuted, punished or convicted because of his/her political, religious, national, racial or ethnic beliefs; if the person requested to be extradited has been tried for the criminal act for which a competent Albanian court demands the extradition¹³.

Procedural rules

The Albanian Code of Criminal Procedure does not provide a separate procedure for sentencing persons suspected of having committed terrorist offences. All the provisions of the Code of Criminal Procedure, which apply to other accused persons, can be applied to those suspected of terrorism. They have exactly the same rights as any other accused person during interrogation, questioning and trial proceedings, including the possibility of appealing against courts rules and decisions.

⁶ Article 232/a of the Criminal Code.

⁷ Article 232/b of the Criminal Code.

⁸ Article 233 and 234 of the Criminal Code.

⁹ Article 234/a of the Criminal Code.

¹⁰ Article 6 of the Criminal Code.

¹¹ Article 7 of the Criminal Code.

¹² Article 7/a of the Criminal Code.

¹³ Article 11 of the Criminal Code.

Investigation

Procedural law provides for the use of different technical means for gathering evidence such as: house searches¹⁴, seizure of persons¹⁵, search and seizure of documents, seizure and opening of letters and other items to be delivered¹⁶, telephone tapping, and other means of intercepting communications (fax, e-mail), electronic surveillance¹⁷, observation¹⁸. The prosecuting authority may search persons when it considers that they may be concealing material evidence or items related to a criminal offense. The defendant, if present, and the person who is responsible for the premises, is handed a copy of a search warrant, informing him/her of the right to request the presence of a reliable person. Where a body search is required, the search is conducted with due respect for the dignity and safety of the person being searched. The Code has provisions on the obligation to give the evidence concerning bank accounts and also on the seizure of bank accounts¹⁹.

A court may order the seizure of bank documents, negotiable instruments, sums deposited in current accounts, etc. even if they are in safety vaults, where there are reasonable grounds to suspect that they are connected to a criminal offence, even if they do not belong to the defendant or are not in his/her name. In urgent cases, this decision may be taken by the prosecutor.

The court authorities make a decision on whether to permit interception/surveillance at the request of the prosecutor, where it is indispensable for an investigation and where there is sufficient evidence to prove the charge. Where there are reasonable grounds to think that a delay might seriously damage an investigation, the prosecutor may authorize interception by a reasoned decision and informs the court immediately, within twenty-four hours. The decision on interception stipulates the way it shall be done and that it cannot exceed fifteen days. This time limit can be extended by the court at the request of the prosecutor whenever it is necessary.

Where judicial police officers and agents have made an arrest or a detention or have taken an arrestee into custody, they must immediately inform the prosecution office of the place where the detention took place. They inform the

arrestee or detainee that he/she is not under any obligation to make a statement but if he/she wants to talk, anything he/she says may be used against him/her in court. The judicial police officers also inform the detainee or arrestee of his/her right to elect a defense counsel and immediately notify the elected defense counselor, as the case may be, the one assigned by the prosecutor. The judicial police shall, as soon as possible, place the arrestee or detainee, on the order of the prosecutor, in pre-detention premises, by sending reports. The judicial police, with the consent of the detainee must, without delay, notify his/her family members. In the case of minors, it is mandatory to notify his/her parent or guardian²⁰.

The investigating body is required to inform a suspect at the beginning of an interrogation that he/she has the right to be interrogated in the presence of a defense lawyer, of his/her choice or assigned *ex officio*. As in other criminal cases, the detainee must be informed immediately and prior to an interrogation of the grounds for him/her being suspected and detained, including the source of the information against him/her, where this does not prejudice the investigation or the source²¹, the right to have a lawyer and the right to refuse to testify or the right to remain silent. After being detained by the police, the suspect must be taken before a judge within 48 hours, who decides whether or not to remand detention.

According to the Albanian procedural law, the decision on detention is always conditional on there being a "reasonable suspicion"²² based on evidence. All evidence collected during the investigation period must be in line with strict procedural rules.

The Albanian legislation has been modified and has improved a series of laws by extending the range of institutions which participate in the investigation and by ensuring better co-ordination of responses between them and their international counterparts, but only in accordance with Article 221 to 226 of the Albanian Criminal Code and if approved by a court decision. This has been done in order to improve investigation techniques and also for the prevention or detection of criminal acts in general or in particular terrorist acts. The following laws were concerned: the law No. 10 172 from 22.10.2009 and the law No. 9885 from 03.03.2008 modifying

¹⁴ Article 205 and 206 of the Code of Criminal Procedure.

¹⁵ Article 204 of the Code of Criminal Procedure.

¹⁶ Article 209 of the Code of Criminal Procedure.

¹⁷ Article 221/1/2/3 of the Code of Criminal Procedure.

¹⁸ Article 221/c of the Code of Criminal Procedure.

¹⁹ Article 210 of the Code of Criminal Procedure.

²⁰ Article 255 of the Code of Criminal Procedure.

²¹ Article 256 of the Code of Criminal Procedure.

²² Article 228 of the Code of Criminal Procedure.

the law No. 9157 from 04.12.2003 concerning the surveillance of telecommunications²³.

Improvement of investigation techniques is necessary in view of the increase of mass communications through the Internet and communication software. In these circumstances, Albania has amended the Criminal Code, in particular by adding Articles 191/a, 208/a and 299/a/b, with law No. 10054 from 29.12.2008.

According to Article 191/a, in case of proceedings on criminal acts in the field of information technology, at the request of a party, the Court orders the controller or the holder to deliver memorized computer data. This procedure also applies in case of service providers for delivery of any information for subscribers or services offered by providers.

Under Article 208/a of the code of criminal procedure, the court decides upon the sequestration of these data and computer systems. In the investigation phase, the prosecutor can, at the request of the Prosecution, take measures to prevent the commission of further acts or to provide a system, or a part of it, or any other means of memorizing, issuing and receiving copies of data, preventing entry into computer data and their integrity²⁴. While under Article 299/a and 299/b is determined the accelerating storage and data maintenance and preservation of accelerating or partial disclosure of them, aiming at no damage or loss and at identifying providers of these computer data²⁵.

The interrogation of justice collaborators and protected witnesses

The Code of Criminal Procedure regulates the interrogation of justice collaborators and witness protection. The latter is conducted under special measures for their protection, which are determined by court *sua sponte* or upon the request of the parties. When the technical means are available, the court may determine that the interrogation will be conducted at a distance, via an audiovisual connection. The court can conceal the identity of the person to be interrogated or order appropriate measures to be taken to render the voice and face of the person unrecognizable by the parties. Also such protection can be providing physical protection both to the

²³ Law No. 10 172 from 22.10.2009 and law No.9885 from 03.03.2008 modifying the law No. 9157 from 04.12.2003 concerning the surveillance of telecommunications.

²⁴ Article 208/a of the Criminal Procedural Law.

²⁵ Article 299/a and 299/b of the Criminal Procedural Law.

witnesses themselves and to their families, relatives or other close persons.

Law No. 10173 from 22.10.2009 on "Collaborators of Justice and Witness Protection" passed by the Parliament has defined special measures, temporary and extraordinary, on the way and witness protection procedures and collaborators of justice as the organisation, functioning, powers and relationships between different bodies for the implementation of a program protection for persons who have knowledge or are part of a criminal organisation in order to prevent and detect criminal acts and terrorist acts²⁶. In this context the new law no. 9887 from 10.03.2008 on "Protection of Personal Data" has been approved, having as object of legal rules for processing data. This processing is done by respecting and guaranteeing the rights and fundamental freedoms and in particular the right to maintain private life. This increases the guarantee in relation to personal data in general and each of those collaborators of justice and witness protection in particular²⁷.

Confiscation

Confiscation must be ordered by a court and involves the reception and release in the favor of the State:

- of objects that have served or are intended as means for the commission of a criminal offence,
- of proceeds of criminal offences, including any kind of asset, as well as legal documents or instruments verifying other titles or interests on assets due or gained directly or indirectly from the commission of a criminal offence; promised or given remuneration; any assets whose value corresponds to a criminal offence; objects whose production, use, holding or distribution constitute a criminal offence.

If the proceeds of a criminal offence are joined with legally gained assets, the latter are confiscated up to the value of the proceeds of the criminal offence.

Other income or profit from the proceeds of crime, assets that are transformed or altered or assets with which these proceeds are involved, are also subject to confiscation in the same amount and manner as the proceeds of a criminal offence.

²⁶ Law No. 10173 from 22.10.2009 on "Collaborators of Justice and Witness Protection".

²⁷ Law No. 9887 from 10.03.2008 on "Protection of Personal Data".

In the framework of international engagements and in conformity with both UN Resolutions 1267 and 1373, Albania has issued and adopted a series of decisions and laws for seizure of immovable property in the framework of measures against financing of terrorism such as:

- Normative Act No. 491 from 30.06.2005;
- Normative Act No. 140 from 13.02.2008;
- Act which regulates the manner of real estate administration seized in the framework of measures against terrorism;
- Normative Act. No. 1077 from 27.10.2009 for approval of a national strategic document "for the investigation of financial crime" which framework also includes actions against terrorism;
- Normative Act No. 1103 from 14.11.2009 on "Approval of Action Plan to Cross-Cutting Strategy to Fight against Organized Crime, Trafficking, and Terrorism" which details every step the Albanian government and institutions must take for a better coordination to prevent and minimize the possible consequences of organized crime, trafficking and terrorism.

The Law No. 10192 from 03.12.2009 on "Prevention and Suppression of Organized Crime, Trafficking through Preventive Measures against Property" aims to prevent and suppresses organized crime and trafficking through confiscation of property of persons who have unjustified economic level as a result of suspected criminal activity and enforcement against persons who commit acts provided by articles 234/a and 234/b of the Criminal Code participating in terrorist organisations. The provisions provide for preliminary checks, the obligation for the delivery of information, conduct of special operations. The Act establishes criteria for sequestration of property, the procedures for seizure and foresees the decisions taken on the measure of sequestration from the Courts and the manner of execution of measures and sequestration procedures for confiscation of assets seized, the manner of passage as well as the use of these confiscated assets.

Preventive measures

On 19 June 2003, the Parliamentary Assembly enacted the law on "Prevention of Money Laundering". The Parliament passed a strong money laundering law that includes antiterrorist financing provisions, bringing Albania's legislation in compliance with international standards. The Bank of Albania has also established a task force to monitor all financial activities of the secondary

banks and their compliance with client verification. Furthermore, several government agencies were set up as well as an interministerial national coordinating committee for the fight against money laundering and financing terrorism²⁸.

On 19.05.2009, the Assembly of Albania has adopted a new Law on "Prevention of Money Laundering and Financing of Terrorism" which aims to fight against money laundering and products that derive from criminal acts as well as to prevent the financing of terrorism.

The prevention of money laundering and products of criminal acts has the same meaning as in section 287 of the Criminal Code, while the financing of terrorism has the same meaning as in Articles 230/a - 230/d of the Criminal Code. This law is in full compliance with international standards and provides for the coordination among all state institutions, bank sector, insurance companies, gambling or games entities of casinos or private companies, etc. that deal with money transactions, the movable and immovable assets in the territory of Albania, carried to this territory or only in transit²⁹.

On 10.10.2013, the Albanian Parliament adopted the Law no. 157 on "Measures against financing terrorism", which abrogate the law of 15 July 2004, no.9258. The law sets out measures against financing terrorism and relations between the bodies in charge for the proposal, adoption, control and its implementation. The purpose of this law is preventing and combating terrorist activities and those who support and finance terrorism, or those for whom it has reasonable grounds to have committed, are committing or intending to commit such activities, by means of freezing, seizure's funds of their assets, in execution to relevant resolutions of the Security Council of the United Nations and other acts of international organizations or international agreements to which Albania is a Contracting Party.

This law identifies also the responsible institutions for implementation of these measures such as the National Bank of Albania, the Financial Supervisory Authority, the Ministry of Justice and the relevant ministries or authorities, institutions and entities dependent and subjects that license and/or supervise, or manage the records of funds

²⁸ Law No. 8610 from 17/05/2000 modified by Law No. 9084 from 19/06/2003 on "Prevention of Money Laundering".

²⁹ 19.05.2009 Law on "Prevention of Money Laundering and Financing of Terrorism".

and other assets³⁰. It's the General Directorate for Prevention of Money Laundering that takes measures for the collection and management of data for persons who are involved in financing of terrorism³¹.

Under the Article 14 of this law, the Minister of Foreign Affairs, within 5 days from the decision of the Security Council of the United Nations, proposes to the Council of Ministers the Draft Decree on updating the list of wanted persons, simultaneously announcing the responsible organs of law enforcement, information services and Minister of Finance, who may decide the temporary freezing of funds and other assets of these persons. UN Security Council resolutions on this subject are directly applicable and considered as part of the domestic legislation.

The law will strengthen the legal framework, implementing decisions that significantly strengthen our legal and administrative ability and take action in the first instance and an appeal court in criminal against terrorism and its supporters, including by freezing their assets. It is necessary to facilitate co-operation between our law enforcement authorities, to strengthen border security and to investigate suspect financial transactions.

In this framework, the Government of Albania approved the National Counter-Terrorism Strategy 2011-2015 and the Action Plan for its implementation, reaffirming the commitment to counter terrorism as a national priority³². The objective of the strategy is to reduce the risk and the fear of terrorist attacks and to limit the possible damage following any attack.

Albania and international effort to counter ISIL

At present, the greatest threats come from the Middle East and North Africa, where radical groups, such as the so-called Islamic State of Iraq and the Levant (ISIL), poses a grave threat especially to the Iraqi people and to the Syrian people, and widely across the globe.

Albania is among the first countries to respond to this global challenge, by taking appropriate legal measures at the national level. In this framework, the Council of Ministers, approved on 19.08.2014,

the Decision No. 543, about the Contribution for the Government of the Republic of Iraq, within the efforts of the international coalition for the counter terrorism. Through this decision, Albania Government gave to the Government of the Republic of Iraq about 89,000 pieces of weapons and ammunition of different types (bullets, grenades, shells)³³.

Additionally, due to this new situation, the Government of Albania has made some essential changes to the Criminal Code, encouraged by the participation of Albanians in Syria and Iraq wars, as foreign fighters. The proposed changes were necessary because the existing law does not include the actual phenomenon of Albanians that call or organize groups to fight outside the territory of Albania.

In the amended Albanian Criminal Code, the concept of foreign fighters, which has not been foreseen before in article 265 (Inciting hatred or strife between nationalities, races and religions), is provided in articles 265/a, 265/b, 265/c. According to Article 265/a, participation in military formations, military or paramilitary organizations in an armed conflict taking place in the territory of a foreign state or the participation in any type of training conducted by these structures, without being a citizen in a foreign country or a member of the armed forces of one of the parties in conflict, is punishable by imprisonment of three to eight years³⁴.

When this criminal act is committed with the intent of overthrowing the constitutional order or violation of the territorial integrity of a foreign state, is punishable by imprisonment of five to ten years as defined in article 265/a.

According to Article 265/b, the organization to participate in military action in a foreign country, including: Promoting, recruiting, organizing, directing, training, equipment, creation or use of funds or other assets for financing, material support of persons in any form and manner, aiming to commit the offense provided by Article 265/a, is punishable by imprisonment of eight to fifteen years³⁵.

The call for participation in violent military action in a foreign country is punishable by imprisonment up to three years³⁶.

³⁰ 10.10.2013, Law No.157, "Measures against financing terrorism", Article 7

³¹ 10.10.2013, Law No.157, "Measures against financing terrorism", Article 8

³² 06.07.2011, Decision no. 675, "National Counter-Terrorism Strategy 2011-2015

³³ Decision No. 543, 08.19.2014

³⁴ Criminal Code, 265/a

³⁵ Criminal Code, 265/b

³⁶ Criminal Code, 265/c

Recently, further measures are taken by the Ministry of Interior which approved on 17.10.2014, the decision number 548/7, on the creation of counter-terrorism directorate, as part of the Albanian State Police, extended in 12 regions. This new structure replaced the Counter Terrorism Sector within the Directorate for Serious Crimes of the Department of Criminal Investigations³⁷. Noting the continued threat to international peace and security posed by terrorism, in accordance with the obligations under international law, the new structure will strengthen the national counter terrorism efforts and capacities, to combat by all means, the new threats posed especially by foreign terrorist fighters.

INSTITUTIONAL FRAMEWORK

In the Republic of Albania there are several authorities within the Executive and the Judiciary responsible for the suppression and combating of terrorism.

The National Security Council is an advisory body of the President of the Republic. It is responsible for determining plans, goals and objectives concerning security and the armed forces.

The Interministerial National Coordinating Committee was created in 2003 to coordinate work between the ministries and agencies responsible for the fight against terrorism.

The Ministry of the Interior and the General Police's Office is responsible for keeping and protecting public order, preventing and investigating, in cooperation with prosecutors, all forms of crime and terrorism. They have within their structure the Judicial Police and Anti-Terrorist Task Force and Economic Crime Directorate.

In accordance with the new Law on "Protection of Witnesses and Collaborators of Justice", the Protection of Witnesses and Collaborators of Justice Directory and the Commission for Evaluation Program function within the General Directory of State Police and the Department of Crime Investigation. They are responsible for coordination, preparation, follow-up, implementation and application (execution) of the protection program on the basis of proposals of the General Attorney and reviews by the Commission (e.g. temporary measures); They also coordinate work with other international

institutions and deal with the use of false identities, etc.

Within the Ministry of Finance, the Money Laundering Prevention Directorate General is responsible for coordinating work between financial institutions on the fight against money laundering.

The other institutions involved in anti-terrorist activities are the following:

The State Information Service,
The Military Intelligence Service,
The Customs Service,
The Ministry of Justice.

Moreover, the Attorney General's Office is the institution responsible for the investigation and pretrial hearing of terrorists. There is a directorate specifically responsible for the fight against organized crime and terrorism within it.

As for the judiciary, Albanian procedural law provides for different types of courts regarding the main trail in the first instance and an appeal court in matters and acts of terrorism. In 2003, the Serious Crimes Court and the Serious Appeal Court were set up in Albania, which are distinct from normal courts. The competences of these courts depend upon the principle of the maximum length of possible sentences or in some cases related to organized crime, acts of terrorism, human trafficking, kidnapping, etc. the composition of the courts is different. The courts of first instance as well serious crime court are tried by one judge and hear the requests of parties during preliminary investigations, requests for the execution of decisions, and requests for jurisdictional relations with foreign authorities. These courts with one judge, also try crimes that are punishable by a fine or with a maximum of not more than 7 years imprisonment. Cases in serious crime courts are tried by judicial panels composed of five judges for serious crimes which are foreseen in Article 75/a of the Code of Criminal Procedure. In the second instance, Appellate Courts with a panel composed of three judges, try cases which have been tried by one judge at district courts. The cases, which have already been tried by the first instance of serious crimes court, are considered by the second instance of the same court composed by five judges while the above mentioned requests and appeals, which were tried by one judge, are examined by three judges-composed panel³⁸.

³⁷ 09.10.2013, decision no.548

³⁸ Article 12-15 of the Code of Criminal Procedure.

INTERNATIONAL CO-OPERATION

Taking into account that, in general, all forms of national terrorism are linked to international terrorism, since it is a phenomenon of international dimension, Albania places international co-operation as a primary issue in the fight against terrorism. In conformity with Article 122 of the Albanian Constitution, any international agreement that has been ratified, constitutes part of the internal legal system. Furthermore, an international agreement that has been ratified by law has precedence over national laws that are not compatible with it. Albania is party to a number of bilateral and multilateral treaties in the field of mutual legal assistance in criminal matters and extradition.

United Nations

Albania has signed and ratified all United Nations anti-terrorist conventions and protocols relating to terrorism. Albania supports the work of the UN Security Council and the obligations which derive from the resolutions of the UN Security Council on the fight against terrorism have been implemented in Albania³⁹.

In this framework, Albania welcomes the adoption of the last Resolution 2178 (2014) of Security Council "Threats to international peace and security caused by terrorist acts", pledge to cooperate in a global effort for maintain peace and security all over the world. With the adoption of this resolution, Albania reaffirm the need to combat threats to international peace and security caused by terrorist acts, including those perpetrated by foreign terrorist fighters, in accordance with the Charter of the United Nations.

OSCE

Albania participates on a regular basis in events related to counter-terrorism that are organised under the auspices of the Organisation for Security and Cooperation in Europe. Albania also welcomes the increased activity by the OSCE and its Action against Terrorism Unit (ATU) in this field, especially with regard to discussions on new concepts in counterterrorism, cyber-terrorism, protection of critical infrastructure against terrorist attacks, container-security, and prevention of counterfeiting of travel documents. The OSCE through its Office for Democratic Institutions and Human Rights (ODIHR) makes a practical

contribution to the implementation of UN convention related to terrorism⁴⁰.

In this framework, the Government of Albania in cooperation with OSCE, will organise a regional meeting on "foreign fighters", in the beginning of the next year, aiming to enhance the regional cooperation in counter terrorism.

NATO

By depositing the national North Atlantic Treaty ratification instrument, on 1 April 2009, Albania officially became a fully-fledged NATO member. Having joined NATO, the Republic of Albania has accomplished its most important foreign-policy and security goal. By joining NATO, Albania has joined the alliance which protects and promotes common values of freedom, peace and stability, including other areas as crisis-management and peace-support operations, regional issues, arms control and issues related to the proliferation of weapons of mass destruction, international terrorism, defense issues such as planning, policy and strategy, civil emergency planning and disaster-preparedness, armaments cooperation, nuclear safety, civil-military coordination of air traffic management, and scientific cooperation. At the 2002 Prague Summit, NATO and its Partners launched a Partnership Action Plan against Terrorism. This plan is leading to improved intelligence-sharing and cooperation in areas such as border security, terrorism-related training and exercises, and the development of capabilities for defense against terrorist attack or for dealing with the consequences of such an attack.

In implementation of its political engagement to actively contribute to the fight against terrorism, Albania became in May 2007 an official contributor to NATO's Active Endeavour maritime operation in the Mediterranean. Since 2002, Albania contributes to ISAF operation in Afghanistan, which, though not being a counter-terrorism operation in per se, is helping to prevent Afghanistan from becoming a base of international terrorism by assisting the government of Afghanistan in expanding its authority and implementing security⁴¹.

Collective efforts based on shared values and principles – animated by a strong political will – are key elements to countering transnational threats linked to terrorism and violent extremism and radicalism.

⁴⁰ <http://www.osce.org/>.

⁴¹ <http://www.nato.int/>.

³⁹ <http://www.un.org/docs/>.

Council of Europe

Albania is actively committed to the fight against terrorism in the framework of the Council of Europe and is also a party to the relevant international legal instruments. By ratifying the last two conventions of 2011 and 2012, Albania is part in all conventions of the Council of Europe in counter terrorism.

On 6 February 2007, Albania has signed and ratified both, the Council of Europe Convention on Prevention of Terrorism (ETS 196) and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198) and has implemented in national legislation new provisions and laws related to these conventions.

On 09.09 2011, Albania has ratified the Third Additional Protocol to the European Convention on Extradition (CETS no.209) (signed on 10.11.2010), that enter into force on 01.05.2012 and on 14.08.2013, ratified also the Fourth additional protocol to the European Convention on Extradition (CETS no.212, signed on 20.09.2012), that entered into force on 01.06.2014.

Relevant Council of Europe conventions – Albania	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]	22.12.2005	01.05.2008
Council of Europe Convention on the Prevention of Terrorism [CETS No. 196]	22.12.2005	01.06.2007
Convention on Cybercrime [ETS No. 185]	23.11.2001	01.07.2004
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]	26.05.2003	26.11.2004
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime [ETS No. 141]	04.04.2000	01.02.2002
European Convention on the Compensation of Victims of Violent Crimes [ETS No. 116]	09.10.2003	01.03.2005
European Convention on the Suppression of Terrorism [ETS No. 90]	04.02.2000	21.09.2000
Protocol amending the European Convention on the Suppression of Terrorism [ETS No. 190]	09.10.2003	15.11.2004
European Convention on the Transfer of Proceedings in Criminal Matters [ETS No. 73]	19.05.1998	04.04.2000
European Convention on Mutual Assistance in Criminal Matters [ETS No. 30]	19.05.1998	04.04.2000
Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 99]	19.05.1998	04.04.2000
Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters [ETS No. 182]	13.11.2001	20.06.2002
European Convention on Extradition [ETS No. 24]	19.05.1998	19.05.1998
Additional Protocol to the European Convention on Extradition [ETS No. 86]	19.05.1998	19.05.1998
Second Additional Protocol to the European Convention on Extradition [ETS No. 98]	19.05.1998	19.05.1998
Third Additional Protocol to the European Convention on Extradition [CETS No. 209]	10.11.2010	09.09.2011
Fourth Additional Protocol to the European Convention on Extradition [CETS No. 212]	20.09.2012	14.08.2013

Relevant United Nations conventions – Albania	Signed	Ratified
Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963)		1.03.1998
Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, 1970)		21.10.1997 a.
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971)		21.10.1997 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)		29.05.2002
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 1973)		22.01.2002 a.
International Convention against the Taking of Hostages (New York, 1979)		22.01.2002 a.
Convention on the Physical Protection of Nuclear Material (Vienna, 1979)		04.04.2002 a.
Amendment to the Convention on the Physical Protection of Nuclear Material (Vienna, 2005)		26.04.2013 (date of deposit) r.
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988)		17.09.2002 a.
2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (London, 2005)	No	
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 1988)		17.09.2002 a.
2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (London, 2005)	No	
Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1991)		19.12.2004 a
International Convention for the Suppression of Terrorist Bombings (New York, 1997)		22.01.2002 a.
International Convention for the Suppression of the Financing of Terrorism (New York, 1999)	18.12.2001	10.04.2002
International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 2005)	23.11.2005	