



# THE REPUBLIC OF SERBIA

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## NATIONAL POLICY

The Republic of Serbia, through its membership of the UN and INTERPOL, its strategic partnership with EUROPOL and its active membership in the regional organisation SECI, expresses its condemnation of all forms of terrorist activity and its readiness to offer assistance to other states in combating terrorism and in protecting and helping victims of terrorism anywhere in the world.

The Republic of Serbia accepts and acts in accordance with lists of persons and organisations the UN has associated with terrorist activities.

The highest body of the Republic of Serbia dealing with the problem of terrorism, among its other activities, is the National Security Council, which has the following powers:

- it deals with national security by analysing security issues;
- it co-ordinates the work of state bodies which constitute the security sector and reviews measures to enhance national security;
- it directs and co-ordinates the work of security services by analysing intelligence and security assessments;
- it defines the priorities and methods of protection and directs the safeguarding of national interests, which is ensured by carrying out intelligence and security activities;
- it directs and co-ordinates the work of security services and advises the Government of the Republic of Serbia on proposals for the budgets of the security services, proposals for the annual and medium-term plans of work of the security services and proposals for the appointment and removal from office of heads of security services.
- it deals with the co-ordinated application of regulations and standards relating to personal data protection and other regulations protecting human rights which may be put at risk by information exchanges or other operational activities.

The operative organ of the National Security Council is the Co-ordination Bureau, which co-ordinates the work of the security services at an operational level and implements the conclusions of the National Security Council.

The National Security Council is not only a consulting body; its decisions also have binding character.

The National Security Council includes the President of the Republic of Serbia as its chairman, and the Prime Minister, the Defence Minister, the Minister of the Interior, the Minister of Justice, the Chief of the General Staff of the Armed Forces of Serbia, the Director of the Security-Information Agency, the heads of the relevant military security services in the Ministry of Defence and the Secretary of the Council, a position held by the Chief of Staff of the President of the Republic.

The Co-ordination Bureau consists of the heads of the relevant military services and the Security-Information Agency and the Secretary of the National Security Council. The following people may take part in the work of the Co-ordination Bureau on an invitation basis: representatives of the Ministry of Foreign Affairs, the Director of Police and the heads of police administrations, the Serbian Public Prosecutor, the Director of the Customs Administration and the heads of other state bodies, organisations and institutions.

## LEGAL FRAMEWORK

### Penal law

The legal basis for counterterrorist activity is contained in the national criminal law (Penal Code of the Republic of Serbia), international conventions which Serbia has ratified and bilateral and multilateral treaties.

The Penal Code of the Republic of Serbia defines the following offenses: terrorism (Article 312), associating for the purpose of unconstitutional activity (Article 319), preparing acts against the constitutional order and security of Serbia (Article 320), grave acts against the constitutional order and security of Serbia (Article

321), international terrorism (Article 391) and financing of terrorism (Article 393).

## **Terrorism**

### Article 312

Whoever, with intention to compromise the constitutional order or security of Serbia, causes an explosion or fire or commits another generally dangerous act or commits an abduction of a person, hostage taking or arbitrary deprivation of freedom of another person or commits some other act of violence or threatens to commit such a generally dangerous act or to use a nuclear, chemical, bacteriological or other generally dangerous device and thereby causes a feeling of fear or insecurity among citizens, shall be punished by a term of imprisonment of five to fifteen years.

### **Associating for the purpose of unconstitutional activity**

#### Article 319

(1) Whoever forms a group or other criminal association in order to commit an offense referred to in Articles 305 to 310 and Articles 312 to 314 of this Code, shall be punished by the penalty laid down for the offense for the commission of which the group or criminal association was organised.

(2) Whoever becomes a member of a group or organised criminal association referred to in paragraph 1 of this Article shall be punished by a term of imprisonment of six months to five years.

(3) The perpetrator referred to in paragraph 1 of this Article who by disclosing the group or organised criminal association or in some other manner prevents the commission of offenses referred to in paragraph 1 of this Article shall be punished by a term of imprisonment of up to three years, and may also be remitted from punishment.

(4) A member of a group or organised criminal association referred to in paragraph 1 of this Article who discloses it before becoming part thereof or before committing an offense for it referred to in paragraph 1 of this Article shall be punished by a term of imprisonment of up to one year, and may also be remitted from punishment.

### **Preparing acts against the constitutional order and security of Serbia**

#### Article 320

(1) Whoever prepares the commission of an offense referred to in Articles 305 to 314 and Article 315,

paragraphs 1 and 2 of this Code, shall be punished by a term of imprisonment of one to five years.

(2) The preparations referred to in paragraph 1 of this Article include procuring and facilitating the means of commission of an offense, removing obstacles to the commission of an offense, making arrangements, planning or organising with others the commission of an offense or other activities creating conditions for the direct commission of an offense.

(3) Whoever dispatches or transports to the territory of Serbia persons or weapons, explosives, poisons, equipment, ammunition or other material for the commission of one or more of the offenses referred to in this chapter shall be punished by a term of imprisonment of two to ten years.

### **Grave acts against the constitutional order and security of Serbia**

#### Article 321

(1) If an offense referred to in Articles 307 to 309 and Articles 312 to 315 of this Code results in the death of one or several persons or endangers the lives of people or is accompanied by grave acts of violence or massive devastation or jeopardises the security or economic or military power of the country, the perpetrator shall be punished by imprisonment for a minimum term of ten years.

(2) If in the commission of an offense referred to in paragraph 1 of this Article the perpetrator intentionally deprives one or more persons of life, the perpetrator shall be punished by imprisonment for a minimum term of ten years or imprisonment for thirty to forty years.

(3) The penalty referred to in paragraph 2 of this Article shall also be imposed on whoever commits an offense referred to in Article 307, Articles 309 to 312, Articles 314 to 319, and Article 320, paragraph 2, of this Code during a state of war, armed conflict or state of emergency.

### **International terrorism**

#### Article 391

(1) Whoever with intention to cause harm to a foreign state or international organisation abducts another person or commits some other act of violence, causes an explosion or fire or commits some other generally dangerous acts or threatens to use a nuclear, chemical, bacteriological or other similar device shall be punished by a term of imprisonment of three to fifteen years.

(2) If an offense referred to in paragraph 1 of this Article results in the death of one or more persons or

if it is committed by an organised criminal group, the perpetrator shall be punished by a term of imprisonment of five to fifteen years.

(3) If in the commission of an offense referred to in paragraph 1 of this Article the perpetrator intentionally kills another person or if the perpetrator is the organiser of an organised criminal group, the perpetrator shall be punished by imprisonment for a minimum term of ten years or imprisonment of thirty to forty years.

(4) Whoever prepares the commission of offenses referred to in paragraphs 1 to 3 of this Code shall be punished by a term of imprisonment of one to five years.

(5) Preparations referred to in paragraph 4 of this Article include procuring and facilitating means of commission of an offense, removing obstacles to the commission of an offense, making arrangements, planning or organising with others the commission of an offense or other activities creating conditions for the direct commission of an offense.

## **Financing terrorism**

### Article 393

(1) Whoever directly or indirectly provides or collects funds intended for the full or partial financing of the commission of an offense referred to in Articles 312, 391 and 392 of this Code shall be punished by a term of imprisonment of one to ten years.

(2) Whoever aids and abets the provision or collection of funds for the commission of an offense referred to in Articles 312, 391 and 392 of this Code, whether or not the offense is committed and whether or not the funds are used for the commission of such offenses, shall be punished by a term of imprisonment of six months to five years.

(3) The funds referred to in paragraph 1 of this Article shall be seized.

## **Procedural rules**

The powers of State authorities responsible for combating terrorism in the area of communications interception are defined in the Criminal Procedure Code, which lays down special procedural rules for the offenses of organised crime, corruption and other grave offenses, including terrorism. The legal basis for combating terrorism is the Code of Criminal Procedure, which lays down the following measures: monitoring and recording telephone and other conversations or communication by other technical means and optical recording of individuals; provision

of simulated business services and the provision of simulated legal transactions; controlled deliveries; automatic computer searches of personal data and related data and its electronic processing; undercover investigators; collaborating witnesses.

In all of these cases, the order to implement measures is issued by the competent court, which supervises and controls their implementation, with the exception of controlled deliveries, which are approved by the Public Prosecutor.

Criminal prosecution falls within the jurisdiction of the Special Prosecutor's Office for Organised Crime, and the proceedings are conducted by the Special Division of the District Court in Belgrade. Other courts and prosecutors' offices may have appropriate jurisdiction in certain cases. There are no institutions specialised solely in the prosecution of perpetrators of offenses of terrorism.

There are no special legal provisions for the prosecution of perpetrators of offenses of terrorism. Prosecution is conducted pursuant to the provisions of the Code of Criminal Procedure, which lays down special procedural rules for organised crime, corruption and other especially grave offenses, including terrorism, and those of the Act Governing the Organisation and Powers of State Authorities in Combating Organised Crime, Corruption and Other Especially Grave Offenses.

## **Other Relevant Legislation**

A National Strategy to Combat Money Laundering and the Financing of Terrorism has been adopted. Strategy implementation and the supervision of the implementation of the Act Governing the Prevention of Money Laundering and the Financing of Terrorism falls within the competence of the Permanent Co-ordination Group. It also supervises the activities of the competent authorities and proposes necessary measures. The prevention of money laundering and of the financing of terrorism falls within the competence of the Division for Combating Organised Financial Crime, which is part of the Service for Combating Organised Crime within the Crime Police Administration of the Ministry of the Interior of the Republic of Serbia, and the Serbian Ministry of Finance's Administration for Combating Money Laundering.

Under the Act Governing the Organisation and Powers of State Authorities Responsible for Combating Hi-Tech Crime, and in accordance with the Convention on

Cybercrime and the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, the Special Prosecutor's Office for Cyber Crime and the Division for Combating Cyber Crime within the Service for Combating Organised Crime in the Crime Police Administration of the Ministry of the Interior of the Republic of Serbia have been formed in order to investigate offenses of cyber terrorism and assist other organisational units in cases where information technology, especially Internet infrastructure, is used in the commission, or in the preparation of the commission, of offenses of terrorism or terrorism-related offenses.

The obligations of telecommunications operators are laid down in the Telecommunications Act and in the technical conditions set down by the Serbian Agency for Telecommunications Subsystems, Devices, Equipment and Installations, including: Internet networks, fixed telecommunications networks, mobile telecommunications network and cable distribution systems.

## **INSTITUTIONAL FRAMEWORK**

The competent authorities for combating terrorism in the Republic of Serbia include:

1. Within the Ministry of the Interior: Criminal Police Department (Service for Combating Organised Crime, Service for Covert Measures, Terrorism Monitoring and Investigation Division, Operative Analytics Division), Department for International Operational Police Cooperation (National Central Bureau of INTERPOL, EUROPOL National Unit, IT Division, Bilateral and Multilateral Cooperation Division), Police Department (uniformed police with general powers), Border Police Department, Gendarmerie, Special Anti-Terrorist Unit, Counter-terrorist Unit, Emergency Situation Sector and City Police Departments;
2. The Ministry of Justice;
3. Special Prosecutor's Office within the Serbian Public Prosecutor's Office;
4. Security-Information Agency;
5. Competent military services at the Ministry of Defence;
6. Within the Ministry of Finance: Customs Department and Money Laundering Prevention Department.

The above mentioned subjects have had their representatives taking part in the National Coordination Body for Combating Terrorism in 2011, due to obligation of the Republic of Serbia to give answers considering European Commission's Questionnaire on actual legal, organizational and procedural solutions enforced by quoted Serbian authorities. The Body is an *ad hoc* intergovernmental and intraministerial organisational unit and its activities depend strictly on the current Republic of Serbia's international obligations according to the process of European integration. So far, the Body used to have two sessions, both in 2011.

There are bilateral treaties on operational co-operation between institutions (ministries, agencies etc.) involved in combating terrorism, which address mutual notifications, the exchange of information and data, the provision of direct physical, professional, technical and other mutual assistance and the implementation of joint measures and activities of interest for protecting the safety of people and property and the security of the Republic of Serbia. The National Security Council of the Republic of Serbia deals with mutual co-operation between bodies responsible for defence and bodies responsible for internal affairs and security services, as well as with co-operation with bodies and services from other countries and international organisations. The National Security Council adopts decisions whereby it directs the work of security services.

## **INTERNATIONAL CO-OPERATION**

The competent police and judicial bodies of the Republic of Serbia co-operate with member states of the European Union through INTERPOL's communication (the protected I24/7 communication system) and in accordance with INTERPOL's correspondence standards. Given that the Republic of Serbia has achieved and ratified a strategic level of co-operation with EUROPOL, only an exchange of information that does not contain personal data is possible. Co-operation with individual member states of the European Union also takes place through an exchange of information through the regional SECI organisation. There are also bilateral treaties with individual member states of the European Union. A specific expression of bilateral and multilateral co-operation between the Republic of Serbia and other states, especially member states of the European Union, through the international activity of law-enforcement agencies, is the application of and compliance with the concept of extradition.

The Ministry of the Interior of the Republic of Serbia also engages in international co-operation with the ministries of the interior of member states of the European Union through a network of 31 accredited liaison officers for international police co-operation seconded to the Republic of Serbia as members of existing diplomatic and consular missions of foreign countries in the Republic of Serbia. The Ministry of the Interior of the Republic of Serbia also has two liaison officers, one in the SECI centre, and the other in the Russian Federation. The appointment of a third liaison officer with the international organisation DCAF is expected.

The Ministry of the Interior of the Republic of Serbia engages in co-operation on a strategic level primarily on the basis of signed international bilateral and multilateral treaties. On an operational level, the largest number of cases is solved through INTERPOL's National Central Bureau in Belgrade, while specific investigations of cases of organised crime are conducted through the Service for Combating Organised Crime. Cross-border co-operation is conducted at the level of the Border Police Administration with neighbouring countries, on the basis of signed treaties and examples of best practice from the European Union. A form of co-operation in the war on terrorism is co-operation between special units in the Ministry of the Interior of the Republic of Serbia with special police units in other countries in the form of training, especially in France, the countries of South-East Europe and the Russian Federation.

The Ministry of the Interior of the Republic of Serbia, in co-operation with the U.S. Department of Justice through the ICITAP programme, organises the training of police officials, especially in combating terrorism and organised crime.

<b>Relevant Council of Europe conventions – Republic of Serbia</b>	<b>Signed</b>	<b>Ratified</b>
European Convention on the Suppression of Terrorism (ETS 90)	15/05/2003	15/05/2003
Amending Protocol (ETS 190)	15/05/2003	14/04/2009
European Convention on Extradition (ETS 24)	-	30/09/2002 (accession)
First Additional Protocol (ETS 86)	-	23/06/2003 (accession)
Second Additional Protocol (ETS 98)	-	23/06/2003 (accession)
Third Additional Protocol (CETS 209)	10/11/2010	01/06/2011
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	-	30/09/2002 (accession)
First Additional Protocol (ETS 99)	-	23/06/2003 (accession)
Second Additional Protocol (ETS 182)	07/04/2005	26/04/2007
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	-	30/09/2002 (accession)
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	12/10/2010	-
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	09/10/2003	9/10/2003
Convention on Cybercrime (ETS 185)	07/04/2005	14/04/2009
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	07/04/2005	14/04/2009
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	16/05/2005	14/04/2009
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	16/05/2005	14/04/2009

<b>Relevant United Nations conventions – Republic of Serbia</b>	<b>Signed</b>	<b>Ratified</b>
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 1973)	-	12/03/2001 (succession)
International Convention against the Taking of Hostages (New York, 1979)	-	12/03/2001 (succession)
International Convention for the Suppression of Terrorist Bombings (New York, 1997)	-	31/07/2003 (accession)
International Convention for the Suppression of the Financing of Terrorism (New York, 1999)	12/11/2001	10/10/2002
International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 2005)	15/09/2005	26/09/2006
Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963)	-	06/09/2001 (succession)
Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, 1970)	-	23/07/2001 (succession)
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971)	-	23/07/2001 (succession)
Convention on the Physical Protection of Nuclear Material (Vienna, 1971)	-	05/02/2002 (succession)
Amendment to the Convention on the Physical Protection of Nuclear Material (Vienna, 2005)	-	-
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)	-	06/09/2001 (succession)
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988)		03/06/2006 (succession)
2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (London, 2005)	-	08/07/2010 (accession)
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 1988)	-	03/06/2006 (succession)
2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (London, 2005)	-	-
Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1991)	-	22/06/2006 (accession)