

ITALY

Definition and Prosecution of Terrorist Acts

Italian law does not specifically define terrorism; however, it does provide for charges associated with ordinary crimes to be “aggravated” when acts have been carried out with “intention to commit acts of terrorism or the subversion of the democratic order”.

Existing provisions of the Italian Criminal Code provides that “anyone promoting, instituting, organizing, managing or financing organizations whose purpose is to propose acts of violence for the purposes of terrorism or for subverting the democratic order shall be liable for a term of imprisonment of between seven and 15 years’.” It also states that “anyone participating in the aforementioned organizations shall be liable for a term of imprisonment of between five and ten years”, specifying that “the pursuit of terrorism shall also apply when the acts of violence are directed against a foreign state, or an international organization or institution”. The same article also contemplates the crime of “providing assistance to associated persons” for which the penalty is a term of imprisonment of a maximum of four years.

Finally, the Italian Penal Code makes it a punishable crime to recruit members for terrorist groups by considering this as a form of conspiracy.

Prevention of Terrorism – Security Measures

Italy has applied the provisions of the Anti-Mafia Act to international terrorism. These provisions provide that the government of Italy may preemptively restrict the personal freedom of suspected terrorists by engaging in surveillance of their movements and activities, exiling them from Italy, and examining their financial transactions. This Act also allows the government of Italy to freeze and confiscate any assets of anyone who is preparing to perpetrate an act of terrorism either in Italy or abroad.

Select Italian governmental agencies have been given additional mandates in an effort to prevent and combat terrorism on various levels. To implement guidelines issued by the Prime Minister, efforts are coordinated among many Governmental Departments including Foreign Affairs, Home Affairs, Defense, Economy, Infrastructure, Health, Bank of Italy, Police, Carabinieri (part of the armed forces), Guardia di Finanza (customs and excise police), and the Intelligence services. With regard to execution of international obligations to combat terrorism, the Italian government has established a “Coordinating Structure for International Counterterrorism Cooperation” known as the National Contact Point of the Counter-Terrorism Committee, within the Ministry of Foreign Affairs.

The “Political Military Unit”(NPM) reports directly to the Prime Minister, and the members of the unit are “senior representatives of all the Government Departments and Agencies responsible for combating terrorism.” The NPM is charged with coordinating “the updating of the National Emergency Plan” and has “coordinated action plans and operations relating to transport safety, bio-terrorism, the strengthening of preventive operations and the suppression of terrorist crime.” The Ministry of Home Affairs, and particularly the Public Security Department are responsible for implementing the Public Security and Order Policy, coordinating the technical and operational aspects of the police forces, directing and managing the National Police Force, and directing and managing the technical support facilities.

With regard to domestic policing, law enforcement is primarily targeted at identifying and dismantling domestic and international terrorist organizations, subversive organizations, and extremist groups pursuing social subversion objectives by recourse to violence and illegal practices. It also investigates military or parliamentary organizations, crimes against the public administration, illegal immigration and the international traffic of weapons, secret or sectarian

ITALY

associations, “group violence” based on ideologies marked by systematic aggression, episodes of illegal acts by organized groups at sports events, and other crimes which even indirectly have negative repercussions on the defense and security of the State and on public order.

The Directorate-General for Criminal Policing is responsible for coordinating judicial police investigations at the national level, collecting, analyzing and processing data and intelligence relating to more serious crimes, cooperating with foreign countries to combat organized crime with a mutual exchange of intelligence and operational strategies and procedures designed to combat the most serious cases of transnational crime, managing individuals turning State’s evidence, and coordinating general pre-emptive policing and law enforcement. Finally, the Carabinieri is empowered with creating a unit dedicated to combating domestic and international terrorism. It also gathers intelligence and investigates possible terrorist organizations.

Italy has adopted several measures to better prevent and respond to terrorist attacks. For example, Italy approved a “Programme for the Use of Military Contingents for the Surveillance and Control of Sensitive Objectives.” This program employs military personnel to guard sites deemed to be at high risk of terrorist attacks. Alarm procedures have also been enacted under the “National Precautionary Alarm System” in order to protect national security. The “National Security Programme” sets out regulations to do with all aspects of air travel security including inspection of baggage, general surveillance. In addition a Working Party has been instituted to draft a Port Security Plan. Finally, a Working Group has been created to deal with the consequences of potential use of biological or chemical weapons, and a plan has been issued with regard to rapid response requiring authorities to activate crisis units. Local health authorities have made relevant information about treatment and containment available for public access, and a protocol has been developed for treatment of materials suspected to contain anthrax.

Weapons Control

Existing Italian legislation provides measures to prevent the supply of weapons from reaching terrorists or terrorist organizations. These laws restrict the circulation of weapons through a tightly controlled system of issuing permits for imports and exports, the registration of companies and data, prior investigations of individuals and the imposition of stringent criminal penalties on offenders. As a member state of the EU, Italy also applies restrictive criteria regarding the acquisition and holding of weapons (including aggressive biological and radioactive substances), as well as export of documents. It should also be noted that Section 22 of law 93/2001 has introduced into the Italian legal system the crime of “organising the traffic in waste”, with penalties of imprisonment for between three and eight years in the case of highly radioactive waste. This provision is particularly useful for combating the transfer of any kind of radioactive materials that are not specifically classifiable as “aggressive.”

Law No. 185 on New Provisions Governing the Export, Import and Transit of Armament prohibits the manufacture, import, export and transit of biological, chemical and nuclear weapons and research designed for their production, and of the provision of the relevant technology.

Italy actively protects its borders by controlling freight traffic. Italy checks goods that come through customs via targeted investigations, use of x-ray systems, and the “Silhouette scan model” for “non-invasive radiographic control of containers”. Italy has also concluded an agreement with the United States on the “Containers Security Initiative” that they hope will extend to the rest of the EU.

Money Laundering – Prevention and Prosecution

Italy has taken steps to prevent terrorist from using Italian banks to finance terrorism. First, it created the Financial Security Committee with the mandate to monitor the way in which

ITALY

Italy's prevention system operates and how sanctions are imposed on persons violating national legislation, with particular reference to EU regulations prohibiting the export of goods and services, bans on flights, or the freezing of capital assets. It is chaired by the Director-General of the Treasury, is comprised of representatives of various government departments assembled to monitor the way "the prevention system operates and how sanctions are imposed" to acquire intelligence at the highest level, and to request further investigation as required.

Second, the Permanent Working Group, established by the Secretariat General of the Executive Committee of the Intelligence and Security Services, has the task of coordinating the information-gathering work of the Intelligence Services and that of other Government Departments in respect of financial activities contrary to national security, and in particular of activities relating to terrorism. This working group, which is known as the "Committee for Coordinating Intelligence on Financial Assets", meets monthly to focus on "financial transactions related to terrorism, including the export of dual-use products" and infiltration by terrorist groups posing as "purchasers of chemical, biological and radiological materials connected with the non-conventional threat."

In addition to these steps, Italy also tries to detect illegal financial transactions by requiring banks and other financial institutions to report (1) any transaction in excess of 20 million lire; and (2) any transactions that are suspicious in nature. Failure to report as required can result in a fine of up to one half the value of the transaction.

Information Sharing

Italy has joined the "Special Task Force" set up by Europol, which covers the four areas of collecting and disseminating information/intelligence, analyzing it in operational terms, carrying out operations, and conducting strategic analyses". Italy is also a party to the "Police Working Group on Terrorism" for the purpose of information exchange and preventive measures. This group is comprised of 21 member countries and transfers information through either direct encrypted systems or via Interpol. Italy's Central Directorate for Preventive Policing is the point of contact for the Police Working Group as it handles the exchange of intelligence and "transmission of urgent information regarding the national security of other states."

Italy actively participates with Interpol and Europol and plans to further its judicial cooperation "through the institution of Eurojust". An Action Plan has been adopted within the G8 countries, that is a joint effort drawn up by the "Lyon Group" and "Rome Group" with a view to establishing information exchange, and cooperation among courts in combating terrorism.

BIBLIOGRAPHY OF ITALIAN LAWS

Definition and Prosecution of Terrorist Acts

1. Decree Law 374/2001
2. Decree Law 15/1980
3. Italian Penal Code, Article 270-bis

Prevention of Terrorism – Security Measures

1. Decree Law 895/1967
2. Decree Law 110/1975
3. Decree Law 185/1990
4. EU Directive 477/1991

Laws Pertaining To Biology

1. Law No. 222, 27 February 1992
2. Law No. 185 on New provisions governing the export, import and transit of armament, 9 July 1990
3. Presidential Decree No. 89, 24 February 1997
4. Decree of the Ministry of Foreign Trade, 14 July 1990
5. Decree of the Ministry of Foreign Trade, 30 October 1990

Money Laundering – Prevention and Prosecution

1. Anti-Mafia Act
2. Decree Law 9/2001/EC
3. Decree Law 197/1991
4. Decree Law 353/2001
5. Decree Law 369/2001
6. Legislative Decree 374 of 25 September 1999
7. Decree Law 413/1991
8. EU Regulation 467/2001