

*Translated from Russian*

## **Information on the implementation of existing international counter-terrorism instruments**

### **I. International instruments**

1. Ukraine is a party to the following international counter-terrorism instruments:

International Convention for the Suppression of Terrorist Bombings of 15 December 1997 (Ukraine acceded to the Convention pursuant to Act No. 2855-111 of 29 November 2001).

In relation to the International Convention for the Suppression of Terrorist Bombings, the following have been adopted:

(1) The Counter-Terrorism Act, article 2 of which provides that the aforementioned Convention forms part of the legal basis for combating terrorism.

(2) Cabinet of Ministers Decision No. 278 of 23 July 2014 establishing the Committee on the Application of Sanctions to Persons Supporting and Financing Terrorism in Ukraine, under which the Committee is a temporary advisory body of the Cabinet of Ministers of Ukraine, one of the main tasks of which is the fulfilment of obligations under the International Convention for the Suppression of the Financing of Terrorism, the European Convention on the Suppression of Terrorism and the International Convention for the Suppression of Terrorist Bombings.

European Convention on the Suppression of Terrorism of 27 January 1977 (ratified pursuant to Act No. 2990-111 of 17 January 2002), as amended.

International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 (ratified pursuant to Act No. 149-IV of 12 September 2002).

In relation to the International Convention for the Suppression of Terrorist Bombings:

(3) The Counter-Terrorism Act has been amended to include a provision containing a definition of the concept “financing of terrorism”.

(4) The Act on amendments to the Criminal Code and the Code of Criminal Procedure on combating nuclear terrorism in connection with the ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism has been adopted and provides for the following:

In the Criminal Code:

In the first part of article 201, paragraph 1, the words “radioactive or explosive substances” have been replaced with the words “explosives, radioactive materials”.

Article 265, paragraph 2, reads as follows:

“2. The same acts committed with the aim of causing loss of human life, harm to human health, large-scale damage to property or significant pollution of the environment shall be punishable by imprisonment for a term of five to eight years.”

A new paragraph 3 and a note have been added to article 265 as follows:

“3. The acts referred to in paragraphs 1 and 2 of this article, where they are committed repeatedly or by prior conspiracy of a group of persons, or if they have caused loss of human life, large-scale damage to property, significant pollution of the environment or other serious consequences, shall be punishable by imprisonment for a term of 8 to 15 years.

Note: Under Articles 265 and 265-1 of this Code, damage to property shall be considered large-scale if the direct losses therefrom amount to a sum that is 300 or more times higher than the non-taxable minimum income.”

Article 265-1 has been added to the Criminal Code, as follows:

“Article 265-1. Illicit manufacture of a nuclear explosive device or a device that disperses radioactive material or emits radiation

The illicit manufacture of any nuclear explosive device or device that disperses radioactive material or emits radiation and that may cause, through its properties, loss of life, harm to human health, large-scale damage to property or significant pollution of the environment shall be punishable by a fine of 300 to 700 times the non-taxable minimum income or restriction of liberty for a period of two to five years or imprisonment for the same period.

The same act committed with the aim of causing loss of human life, harm to human health, large-scale damage to property or significant pollution of the environment shall be punishable by imprisonment for a term of five to eight years.

The acts referred to in paragraphs 1 and 2 of this article, where they are committed repeatedly or by prior conspiracy of a group of persons, or if they have caused loss of human life, large-scale damage to property, significant pollution of the environment or other serious consequences, shall be punishable by imprisonment for a term of 8 to 15 years.”

The first part of article 414, paragraph 1, reads as follows:

“1. Violation of the rules for handling weapons, ammunition, explosives and other substances and objects that pose an increased risk to the public, and also radioactive materials, where such violation has caused injury or created a risk to the environment.”

International Convention for the Suppression of Acts of Nuclear Terrorism of 14 September 2005 (ratified pursuant to Act No. 3533-IV of 15 March 2006).

Council of Europe Convention on the Prevention of Terrorism of 16 May 2005 (ratified pursuant to Act No. 54-V of 31 July 2006).

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 16 May 2005 (ratified pursuant to Act No. 2698-VI of 17 November 2010).

Agreement of 20 July 2002 on cooperation among the Governments of Georgia, Uzbekistan, Ukraine, Azerbaijan and Moldova (GUUAM) in combating terrorism, organized crime and other dangerous types of crime and the Protocol to that Agreement of 4 December 2008 (approved pursuant to Cabinet of Ministers Decisions No. 1572 of 24 October 2002 and No. 722 of 25 August 2010).

Additional Protocol on combating terrorism to the Agreement among the Governments of the States members of the Organization of the Black Sea Economic Cooperation on cooperation in combating crime, in particular organized crime, of 3 December 2004 (approved pursuant to Cabinet of Ministers Decision No. 1091 of 17 December 2008).

(5) United Nations Security Council resolution 1325 (2000) on women and peace and security, adopted by the Council at its 4213th meeting.

In relation to Security Council resolution 1325 (2000) on women and peace and security:

- Act No. 2523-VIII of 6 September 2018 amending certain laws of Ukraine on ensuring equal rights and opportunities for women and men in military service in the Armed Forces of Ukraine and other military units was adopted; under the Act, amendments were made to a number of existing laws and regulations, including the Military Duty and Military Service Act (Bulletin of the Verkhovna Rada of Ukraine, 2006, No. 38, p. 324), as follows:

(1) A second part has been added to article 1, paragraph 12:

“Women shall perform their military duty on an equal footing with men (except in cases covered by the laws on maternal and child welfare and on the prohibition of discrimination on the

basis of sex), including recruitment on a voluntary (contractual) basis and conscription, military service, service in the military reserve, performance of military duty in the reserve and compliance with the rules of military registration.”

Bilateral agreements, in particular the Agreement of 24 April 2001 between the Cabinet of Ministers of Ukraine and the Government of the Hellenic Republic on combating terrorism, illicit drug trafficking, organized crime and other forms of crime, approved pursuant to Cabinet of Ministers Decision No. 1012 of 19 November 2008; the Agreement of 24 February 2000 between the Cabinet of Ministers of Ukraine and the Government of the Republic of Latvia on cooperation in combating terrorism, illicit trafficking in narcotic drugs, psychotropic substances and precursors and organized crime, approved pursuant to Cabinet of Ministers Decision No. 1389 of 5 December 2007; the Agreement of 12 April 2007 between the Cabinet of Ministers of Ukraine and the Government of the Republic of Lithuania on cooperation in combating crime and international terrorism, approved pursuant to Cabinet of Ministers Decision No. 1252 of 24 October 2007; the Agreement of 26 October 1993 on cooperation between the Government of Ukraine and the Government of the Republic of Croatia in combating terrorism, smuggling, drug abuse, organized crime and other forms of crime; and other bilateral agreements, including many memorandums of understanding concerning, in particular, cooperation in countering the financing of terrorism, concluded between the State Financial Monitoring Service of Ukraine and the relevant authorities of Austria, the United Kingdom, Denmark, Greece, Finland, Uzbekistan, India, Afghanistan, Uruguay, Lebanon, Kuwait, South Africa, Egypt, and other countries around the world.

The following international agreements (memorandums) have been signed on the basis of the 1994 Declaration on Measures to Eliminate International Terrorism:

(1) Agreement of 15 October 2015 on cooperation between the Office of the Prosecutor-General of Ukraine and the Office of the Federal Prosecutor of the Kingdom of Belgium in combating cybercrime, organized crime, corruption and terrorism.

Under the Agreement, the Parties cooperate in combating cybercrime, organized crime, corruption and terrorism through the exchange of information and documents relating to offences involving cybercrime, organized crime, corruption and terrorism and persons involved in them.

(2) Agreement between the Cabinet of Ministers of Ukraine and the Government of the Federal Republic of Germany on cooperation in combating organized crime, terrorism and other ordinary, serious and especially serious offences, signed on 30 August 2010 and approved pursuant to Cabinet of Ministers Decision No. 427 of 20 April 2011 (entered into force for Ukraine

on 21 July 2012).

Under the Agreement, the Parties cooperate, in accordance with their national laws and capabilities, in preventing and combating ordinary, serious and especially serious offences, in particular with regard to combating terrorism and the financing of terrorism.

(3) Memorandum of understanding of 25 January 2019 between the State Financial Monitoring Service of Ukraine and the financial intelligence unit of the Republic of Austria on cooperation in combating the legalization (laundering) of proceeds of crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction.

(4) Memorandum of understanding of 24 January 2019 between the State Financial Monitoring Service of Ukraine and the financial intelligence unit of the State of Kuwait on cooperation in combating the legalization (laundering) of proceeds of crime and the financing of terrorism.

(5) Memorandum of understanding of 11 September 2018 between the State Financial Monitoring Service of Ukraine and the financial intelligence unit of the Republic of Trinidad and Tobago on cooperation in combating the legalization (laundering) of proceeds of crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction.

(6) Memorandum of understanding of 3 September 2018 between the State Financial Monitoring Service of Ukraine and the financial intelligence unit of the United Kingdom of Great Britain and Northern Ireland, with the approval of the Director General of the National Crime Agency, on cooperation in combating the legalization (laundering) of proceeds of crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction.

(7) Memorandum of understanding of 27 February 2018 between the State Financial Monitoring Service of Ukraine and the Department for Combating Tax and Currency Crimes and the Legalization of Proceeds of Crime within the Office of the Prosecutor-General of the Republic of Uzbekistan on cooperation in combating the legalization (laundering) of proceeds of crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction.

2. It should also be noted that the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism was signed on behalf of Ukraine in Strasbourg on 28 October 2015.

By signing the Additional Protocol, Ukraine has undertaken to criminalize a number of acts that constitute terrorist activities (“participating in an association or group for the purpose of

terrorism”, “receiving training for terrorism”, “travelling abroad for the purpose of terrorism”, “funding travelling abroad for the purpose of terrorism” and “organizing or otherwise facilitating travelling abroad for the purpose of terrorism”). However, one of these acts, namely “participating in an association or group for the purpose of terrorism”, is already criminalized under Ukrainian law).

The Additional Protocol also provides for the designation by States parties of points of contact for the exchange of information concerning persons travelling abroad for the purpose of terrorism.

The Security Service of Ukraine, together with specialists from the Ministry of Internal Affairs and the Office of the Prosecutor-General, has prepared two draft laws:

- On ratification of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism;

- On amendments certain legislative acts of Ukraine in connection with the ratification of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism.

These draft laws, registered under No. 0221 and No. 10232, respectively, are currently under consideration by the Verkhovna Rada of Ukraine.

## **II. National law**

1. The main national laws implementing the provisions of the relevant international legal instruments to which Ukraine is a party are as follows:

(a) The Counter-Terrorism Act

The Act specifies the legal and organizational basis for combating terrorism, the powers and responsibilities of the State authorities, citizens’ associations and organizations, officials and individuals in that regard, the procedure for coordination of their activities, and guarantees of legal and social protection for individuals in connection with their participation in efforts to combat terrorism.

Under the Act, the Cabinet of Ministers is responsible, within its competence, for organizing efforts to combat terrorism in Ukraine and for providing the necessary capacity and resources for that purpose. The central executive authorities participate in efforts to combat terrorism within their competence, as defined by the relevant laws and other legal and regulatory instruments issued on the basis of those laws.

The Counter-Terrorism Act specifies the entities that are directly engaged in combating terrorism within their competence (the Security Service of Ukraine, the Ministry of Internal Affairs, the National Police, the Ministry of Defence and others), and also the entities that are involved, where necessary, in activities relating to the prevention, detection and suppression of terrorist activities (the State Financial Monitoring Service, the Foreign Intelligence Service, the Ministry of Foreign Affairs, the State Service for Special Communications and Information Protection, etc.).

Other central and local executive authorities, local government bodies, companies, institutions and organizations, irrespective of their reporting lines and form of ownership, their officials, and also members of the public, with their consent, may participate in counter-terrorism operations by decision of the leadership of each operation, in compliance with the requirements of the Counter-Terrorism Act.

However, the main body in the national system for combating terrorist activities is the Security Service of Ukraine.

The Counter-Terrorism Centre of the Security Service of Ukraine coordinates the activities of entities involved in combating terrorism.

(b) The Criminal Code of Ukraine

The Criminal Code establishes criminal liability for the commission of a terrorist act (art. 258), involving another person in the commission of a terrorist act (art. 258-1), public calls for the commission of a terrorist act (art. 258-2), establishment of a terrorist group or terrorist organization (art. 258-3), assisting in the commission of a terrorist act (art. 258-4) and financing of terrorism (art. 258-5). The investigation of these offences falls within the competence of the Security Service of Ukraine.

The Criminal Code also establishes liability for other dangerous acts that may be directly connected with terrorist activities (for example, illegal handling of radioactive materials (art. 265), illicit manufacture of a nuclear explosive device or a device that disperses radioactive material or emits radiation (art. 265-1) and violation of the rules for handling explosive, flammable or corrosive substances or radioactive materials (art. 267)).

(c) The Act on preventing and combating the legalization (laundering) of proceeds of crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction

The Act specifies the legal mechanism for combating the phenomena and acts in question, which pose a threat to society.

For the purpose of applying the relevant financial restrictions, the Act provides for the establishment of a list of persons who are involved in terrorist activities or are subject to international sanctions.

The State Financial Monitoring Service of Ukraine is responsible for implementing State policy with regard to preventing and combating the legalization (laundering) of proceeds of crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction.

(d) Regulations on the unified State system of preventing, responding to and eliminating terrorist acts and minimizing their impact (approved pursuant to Cabinet of Ministers Decision No. 92 of 18 February 2016)

Under the regulations, a mechanism is established for the functioning of the unified State system of preventing, responding to and eliminating terrorist acts and minimizing their impact, terrorist threat levels are defined, and provision is made for measures to be taken by entities engaged in combating terrorism in response to the commission or threat of commission of a terrorist act.

The coordinating body for the unified State system and entities engaged in combating terrorism is the Counter-Terrorism Centre of the Security Service of Ukraine.

The Regulations establish the following terrorist threat levels, depending on the information available regarding the commission or threat of commission of a terrorist act:

“Grey (possible threat)” - where factors (conditions) conducive to the commission of a terrorist act are present;

“Blue (potential threat) - where there is information requiring corroboration about preparations for the commission of a terrorist act;

“Yellow (possible threat)” - where there is reliable (corroborated) information about preparations for the commission of a terrorist act;

“Red (real threat)” - where a terrorist act is committed. The terrorist threat level is temporarily established for all entities engaged in combating terrorism or for individual such entities and applies throughout the territory of Ukraine, in individual localities or at sites of possible terrorist attacks.



Decisions concerning the establishment, change or revocation of a terrorist threat level or the time period or area to which the terrorist threat level applies are taken by the Head of the Counter-Terrorism Centre, with the written permission of the Chair of the Security Service of Ukraine. The Head of the Counter-Terrorism Centre immediately informs the President of Ukraine of the decision taken.

Decisions concerning the establishment, change or revocation of a terrorist threat level or the time period or area to which the terrorist threat level applies are published in the media.

2. In order to implement the provisions of national counter-terrorism law, it should be noted that for a long time Ukraine was engaged in a counter-terrorism operation that it was forced to conduct in response to unprecedented terrorist threats to the country.

Under the Counter-Terrorism Act, a counter-terrorist operation is carried out only when there is a real threat to the life and safety of the public or to the interests of society or the State, if the threat cannot be eliminated by other means.

On account of the aggression of the Russian Federation and the activities of illegal armed (terrorist) units supported by the Russian Federation in Ukrainian territory, the entities engaged in combating terrorism have, in accordance with a decision of the National Security and Defence Council of Ukraine enacted by Presidential Decree No. 405 of 14 April 2014, been taking active steps to implement a counter-terrorist operation in Donetsk and Luhansk Provinces since 14 April 2014, with the aim of giving prior warning of, preventing and stamping out terrorist activities, freeing hostages, ensuring public safety, neutralizing terrorists and minimizing the impact of terrorist activities in the area where the counter-terrorist operation is being conducted.

The counter-terrorist operation in Donetsk and Luhansk Provinces was suspended on 30 April 2018 in accordance with Presidential Decree No. 116 of 30 April 2018 and Decision No. 33/1-4129 of the First Deputy Head of the Counter-Terrorism Centre of the Security Service (Head of the Operational Headquarters for the Management of Counter-Terrorist Operations) of 30 April 2018.

In connection with a decision of the Commander-in-Chief of the Armed Forces of Ukraine, up until 30 April 2018 measures were initiated to ensure national security and defence and to repel and deter the armed aggression of the Russian Federation in Donetsk and Luhansk Provinces; these measures were implemented on the basis of the Act on particular aspects of State policy to ensure the State sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Luhansk Provinces.

It should also be noted that, on the basis of the 1994 Declaration on Measures to Eliminate International Terrorism, the following amendments have been made to national law:

(6) Presidential Decree No. 53/2019 of 5 March 2019 on counter-terrorism policy in Ukraine

24 April 2002:\* monitoring of status and trends in the spread of terrorism and continuous systemic analysis and multidimensional comprehensive assessment of the causes and conditions influencing the emergence and spread of terrorism, including international terrorism.

24 April 2003: enhancement and expansion of cooperation between the entities engaged in combating terrorism and the law enforcement agencies and special services of foreign States, the counter-terrorism structures of the United Nations, the Organization for Security and Cooperation in Europe, the North Atlantic Treaty Organization (NATO), the European Union and other international organizations engaged in combating terrorism on the basis of international treaties.

24 April 2003: Annual National Programme for 2019 under the auspices of the NATO-Ukraine Commission, approved pursuant to Presidential Decree No. 117/2019 of 10 April 2019, with the aim of:

- Improving the system of preventing and combating the legalization (laundering) of proceeds of crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction;

- Increasing the exchange of information with the financial intelligence units of NATO member States on combating the legalization (laundering) of proceeds of crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction (percentage);

- Increasing the level of public support in Ukraine for State policy on incorporating principles of gender equality in the various parts of the security and defence sector in Ukraine;

- Improving the level of human resources development on the basis of the results of gender mainstreaming in the activities of the Armed Forces of Ukraine (percentage).

The following measures have been taken (with percentage implementation rates):

- A number of advisers whose responsibilities include gender issues have been appointed in the central office of the Ministry of Internal Affairs, organs of the Ministry of Internal Affairs

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\* *Translator's note:* The relevance of this date and those at the beginning of the next two paragraphs is not clear.

and higher education institutions with specific educational requirements that provide training for staff of the Ministry of Internal Affairs;

- A standard procedure for conducting training sessions on gender awareness has been approved;

- A draft regulation on harmonization and standardization of terminology on gender-related violence has been developed;

- A proportion of staff of the Ministry of Internal Affairs have participated in gender awareness training;

- Guidance has been approved with regard to mainstreaming gender in the existing educational programmes of higher education institutions with specific educational requirements that provide training for staff of the Ministry of Internal Affairs;

- A number of seminars and training sessions have been held for representatives of the media on equal rights and opportunities for women and men in the security and defence sector of Ukraine;

- A proportion of staff in the security and defence sector have participated in training sessions, seminars, conferences and meetings on gender awareness;

- Gender issues are included in a number of curricula and courses of the education institutions of the Ministry of Defence and in the curricula of courses for teaching staff at military higher education institutions;

- A proportion of female military personnel have attended training courses on civilian-military cooperation at the International Peacekeeping Training Centre of the Ivan Chernyakhovsky National Defence University of Ukraine;

- A number of advisers on gender issues have been appointed in the Armed Forces of Ukraine (in the General Staff of the Armed Forces and in the joint strategic and operational headquarters, specifically in the different branches of the Armed Forces);

- A number of regional media outlets have broadcast public service announcements on gender issues;

- A number of military personnel have attended NATO international training courses on gender issues (strategic and operational levels);

- A number of information materials on gender issues have been published in the print and electronic media;

- A number of guidelines on gender issues for media representatives have been produced and disseminated.

Steps are being taken to ensure effective cooperation with NATO and other international organizations in combating international terrorism and to participate actively in international peace and security operations as part of cooperation with NATO, taking into account the political and military situation in the temporarily occupied territories of Ukraine, through the following activities (with percentage implementation rates):

- A number of terrorist threats to Ukraine or its nationals, institutions or facilities, including abroad, have been detected/thwarted, including as a result of the exchange of intelligence information;

- A national contingent has participated in an operation of the multinational Kosovo Force of NATO (KFOR) and national personnel have participated in the NATO Resolute Support Mission for the provision of training and advice in the Islamic Republic of Afghanistan;

- The national contact point of the Naval Forces of the Armed Forces of Ukraine (Odessa) has participated in the NATO Operation Maritime Guard through continuous monitoring of the maritime situation in the Black Sea and the exchange of information with the Operation's headquarters (NATO Allied Maritime Command, Northwood);

- Participation in the Ukraine-United States Sea Breeze 2019 programme of multinational exercises, in accordance with established procedure;

- National personnel have participated in military training activities and training missions as part of the joint Lithuanian-Polish-Ukrainian brigade (LitPolUkrBrig).

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