

SPECIAL SOLUTIONS IN POLISH CRIMINAL LAW AND CRIMINAL PROCEDURAL LAW TO COMBAT TERRORIST CRIMES

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London, 7 July 2005

**Islamic terrorists
carried out
suicide attacks**



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Beslan, 1 September 2004

**Chechen
separatists
attack on
a school**



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Madrid, 11 March 2004

**A total of 10 bombs
exploded in four trains
approaching
main train station.**

**192 killed
almost 2,000 injured**



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Examples of Polish cases

Place: Wrocław, Poland, bus stop

Date: 19 May 2016

Time: 13.43

Number of dead: none

Number of injured: 1

Type of attack: Bomb attack

Perpetrator: Paweł R.



The bomber left a homemade bomb at the bus, but noticed by passengers it was carried by the driver to the bus stop, where the explosion occurred.



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Sąd uznał, że mężczyzna miał na celu zabójstwo wielu osób (Agencja Gazeta, Fot: Kornelia Głowacka-Wolf)



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Preparation for terrorist attacks

Date of arrest: 16 June 2023

Place: the Lower Silesian Voivodship

Number of dead or injured:
none

A man who, jointly and upon mutual agreement with other persons claiming to represent the terrorist organisation 'Islamic State' and to support ISIS, planned to commit a terrorist attack on government office buildings on Polish territory

Date of arrest: 5 Nov 2024

Arrested people: 8

Place: Zgorzelec, the Lower Silesian Voivodship and Germany, Austria

Number of dead or injured: 0

A 23-year-old German citizen, Jörg S., who was charged with founding and membership of a terrorist organisation classified as armed right-wing extremism of a neo-Nazi nature

Cyber-terrorism



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„A crime of terrorist nature”



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The basic legal act that sets out the rules for conducting anti-terrorist activities aimed at preventing, detecting and responding to terrorist incidents and cooperation between authorities competent to conduct such activities is

**the Act of 10 June 2016
on anti-terrorist activities.**

- **terrorist incident** - shall be understood as a situation suspected to have arisen as a result of a crime of a terrorist nature referred to in Article 115 § 20 of the Penal Code, or the threat of the occurrence of such an offence

A crime of a terrorist nature - legal definition

It is a prohibited act subject to the penalty of deprivation of liberty with an upper limit of at least 5 years which is committed with the purpose of:

- seriously terrorising a large number of people,
- compelling/forcing a public authority of Poland, another state or an international organisation to perform or to omit to perform certain actions,
- causing a serious disruption of the political system or economy of Poland, of another state or an international organisation, as well as a threat to commit such an act.

Art. 115 § 20 of the Penal code

Rules of criminal punishment

The penalty provisions provided for a so-called multi-recidivist shall also apply to the perpetrator of a terrorist offence. **(Art. 65 p.c.):**

the court imposes the penalty of deprivation of liberty that **exceeds** the lowest statutory **penalty** provided for a crime attributed to the perpetrator, and may impose the penalty of deprivation of liberty exceeding by half the upper limit of a statutory penalty. **(Art. 64 p.c.)**

The aggravation of the upper limit of the statutory penalty does not apply to felonies.

example:

Art. 148 of the Penal Code.

§ 1. Whoever kills a human, is subject to the penalty of deprivation of liberty for no less than 10 years or the penalty of deprivation of liberty for life. - for a terrorist offender: from 15 years to 30 or life imprisonment

§ 2. Whoever kills a human:

- 1) with particular cruelty,*
- 2) in relation to taking a hostage, rape or robbery,*
- 3) with a motivation deserving special condemnation,*
- 4) with the use of explosives,*

is subject to the penalty of deprivation of liberty for no less than 15 years or the penalty of deprivation of liberty for life. - for a terrorist offender: from 22,5 years to 30 or life imprisonment

§ 3. Whoever kills more than one person in a single act, or has been previously convicted for a homicide by a final and valid ruling, and the perpetrator who has killed a public officer during the performance of official duties or in relation to performing such duties, consisting in protection of peoples' safety, public safety or public order is subject to the penalty provided for in § 2.

example:

Art. 163 of the Penal Code

*§ 1. Whoever brings about an incident **threatening** life and health of multiple persons or property of great extent, in the form of:*

- 1) a fire,*
- 2) a collapse of a structure, flooding, or landslide, rockslide or snowslide,*
- 3) an explosion of explosive or flammable materials, or other violent release of energy, spreading of poisonous, asphyxiating or blistering substances,*
- 4) a violent release of nuclear energy or ionising radiation,*

*is subject to the penalty of deprivation of liberty for between one year and 10 years. -
for a terrorist offender: from 1,5 to 15 years*

Rules of criminal punishment

- A prisoner convicted of a terrorist offence may be conditionally released after serving at least 75 per cent of his sentence, but the court may impose a ban on conditional release.

Rules of criminal punishment

Art. 37a of the Penal Code

§ 1. If a statute provides for a crime the penalty of deprivation of liberty not exceeding 8 years as the upper limit of a statutory penalty and the imposed penalty of deprivation of liberty would not exceed one year, the court may impose instead the penalty of limitation of liberty no less than 3 months or a fine no less than 100 daily rates, while at the same time imposes a penal or compensatory measure or forfeiture.

§ 2. The provision of § 1 does not apply to the perpetrators (...) of crimes of terrorist character.

Art. 110 § 1 of the Penal Code

A Polish criminal statute applies to an alien who committed abroad a crime of a terrorist character.



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Terrorism-related crime types

Financing a terrorist crime

Art. 165a of the Penal Code

§ 1. Whoever accumulates, transfers or offers legal tenders, financial instruments, securities, foreign exchange, property rights or other movable or immovable property with the intent of financing a crime of a terrorist character (...), is subject to the penalty of deprivation of liberty for between 2 years and 12 years.

§ 2. Whoever makes the property referred to in § 1 available to an organised criminal group or association having as its purpose the commission of the crime referred to in that provision, a person participating in such group or association or a person intending to commit such crime, is subject to the same penalty.

§ 3. Whoever covers costs associated with satisfying needs or carrying out financial obligations of the group, association or person referred to in § 2, without a statutory duty to do so, is subject to the penalty of deprivation of liberty for up to 3 years.

§ 4. The perpetrator of the act referred to in § 1 or 2 who acts unintentionally, is subject to the same penalty.

Organised crime group

Art. 258 of the Penal Code

§ 1. Whoever participates in an organised crime group or association having as its purpose the commission of crimes or fiscal crimes, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.

§ 2. If the group or association referred to in § 1 has (...)as its purpose the commission of a crime of a terrorist character, the perpetrator is subject to the penalty of deprivation of liberty for between 6 months and 8 years.

§ 4. Whoever sets up or leads a group or association having as its purpose the commission of a crime of a terrorist character, is subject to the penalty of deprivation of liberty for no less than 3 years.

Spread of content

Art. 255a of the Penal Code

§ 1. Whoever spread or publicly displays contents that may facilitate/ make it easier to commit a crime of a terrorist character, with the intent that such crime is committed, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.

§ 2. Whoever, with the purpose of committing a crime of a terrorist character, engages in a training that may make the commission of such crime possible or familiarizes oneself with contents referred to in § 1, is subject to the same penalty.

Crossing the border

Art. 259a of the Penal Code

Whoever crosses the border of the Republic of Poland with the purpose of a crime of a terrorist nature or a crime provided for in art. 255a or arts. 258 § 2 or 4, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.

Crossing the border - extraordinary mitigation of the penalty

Art. 259b of the Penal Code

Upon the public prosecutor's motion, the court applies extraordinary mitigation of the penalty, and may even conditionally suspend its enforcement with regard to the perpetrator of the crime provided for in art. 259a who has voluntarily withdrawn from:

- 1) committing a crime of a terrorist character or a crime provided for in art. 255a or arts. 258 § 2 or 4 and has disclosed all the substantive circumstances of the commission of the act to a law enforcement authority responsible for prosecuting crimes or has prevented the commission of the intended crime;
- 2) assisting other persons in committing the crime provided for in art. 259a and has disclosed all the substantive circumstances of the commission of the act, especially information concerning the individuals who have committed the crime provided for in art. 259a, to a law enforcement authority responsible for prosecuting crimes.

Failure to report the crime committed

Art. 240 of the Penal Code

§ 1. Whoever, having reliable information about a punishable preparation, attempt or the commission of (...) a crime of a terrorist character, fails to report it promptly to a law enforcement authority responsible for prosecuting crimes, is subject to the penalty of deprivation of liberty for up to 3 years.

Investigation



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Phases of proceedings at the scene of incident

- **Rescue operations** - the priority is to save human life and health, as well as property, including live animals
- **Securing the scene of an incident** - preventing unauthorized access to the scene of the incident (inner zone) and the adjacent area (outer zone), and preventing the destruction, deformation or loss of traces and evidence
- **Procedural securing of the crime scene** - visual inspection of the crime scene, belongings, persons and corpses, as well as the places where corpses are revealed
- **Other investigative activities** - operational and investigative activities, and administrative and orderly activities - carried out to conduct pre-trial investigation, in order to clarify the course and circumstances of the incident

Search of premises or detention of a suspected person

In the case of suspicion of committing or attempting to commit or preparation of a terrorist offence, in order to detect or detain or forcibly bring in a suspected person, as well as in order to find things which may constitute evidence in the case or which are subject to seizure in criminal proceedings, the public prosecutor may decide to:

- 1) carry out a search of premises and other places located **in the area** indicated in the order,
- 2) detain a suspected person
 - if there are reasonable grounds to believe that the suspected person or the listed items are in the area.
2. For the purpose of finding the items listed in paragraph 1, a search may also be carried out on persons, their clothing and handheld items located in the area indicated in the order.
3. The search and seizure referred to in paragraphs 1 and 2 may be carried out at any time of day.

Article 25 of the Act on anti-terrorist activities

Decision to lay charges

In the event of **suspicion** that a terrorist offence has been committed, if the interests of the pre-trial proceedings so require, a decision to present charges may be made on the basis of information obtained as a result of operational and recognition activities.

Article 26 of the Act on anti-terrorist activities

Pre-trial detention

The court, on the request of the public prosecutor, may apply pre-trial detention for a period not exceeding **30 days** (may be extended under the terms of the Criminal Procedure Code).

An independent premise for the application of pre-trial detention is the probability of the committing, attempting or preparing to commit an offence of a terrorist nature.

Article 26 of the Act on anti-terrorist activities

Pre-trial detention under the Criminal Procedure Code

(on general basis)

- Precautionary measures may be used to secure the proper course of the proceedings, and exceptionally also to prevent the defendant from committing a new, serious crime; they may be used only if the evidence gathered indicates **a high probability** that the defendant has committed a crime.

Pre-trial detention and other precautionary measures may be applied if:

- there is a justified risk that the accused may take flight or go into hiding, particularly if their identity cannot be established or the accused has no permanent residence in the country;
- there is a justified risk that the accused would induce other persons to give false testimony or attempt to obstruct the criminal proceedings in some other illegal manner.

§ 2. Where the accused has been charged with a felony or a delinquency punishable by imprisonment of a maximum of at least 8 years or where the court of the first instance has sentenced the accused to a penalty of imprisonment of not less than 3 years, the need to apply provisional detention for the purpose of securing the correct conduct of proceedings may be justified by the severe character of the penalty that may be imposed on the accused.

Thank you for Your attention

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