

Netherlands

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Section 1: Summary of Domestic Legislation

The Netherlands has approached the fight against terrorism with an attempt to not only deal with the violent acts but also to try and address the causes of terrorism at the earliest possible stage. Amongst the several legislative acts combating terrorism, the most important is the Crimes of Terrorism Act.

The Crimes of Terrorism Act

The most important provision in the [Crimes of Terrorism Act](#) is heavier penalties for crimes committed with terrorist intent. Article 83a defines terrorist aims as attempting to seriously intimidate the population (or part of it), and/or attempting to force the government or any organisation to act or refrain from acting, and/or to disrupt the political, economic or social structure of a country.

Where offences are committed with the aim of preparing for a terrorist offence a heavier penalty also applies. Recruiting someone for jihad and membership of a terrorist organisation were both made criminal offences. Conspiring to commit certain specified serious terrorist offences were made in to separate criminal offences.

Access to Data (General Powers) Act

The [Access to Data \(General Powers\) Act](#) grants powers to state authorities to demand data from third parties, including individuals and any organisations, where such data may be useful in the investigation of crimes. Whereas before there needed to be a suspect before data could be demanded, now only an indication of terrorism is required.

Witness Identity Protection Act

This [Act](#) allows intelligence reports from the General Intelligence and Security Service (AIVD) to be examined in court and therefore allows them to be used as evidence. Whereas before this act intelligence documents were unlikely to be accepted as evidence in criminal proceedings, now the investigating judge is allowed to question an intelligence official about a report without the presence of the defence. The anonymity of the witness is usually preserved in such cases.

Investigation and Prosecution of Terrorist Offences (Extension of Powers) Act 2006

The purpose of this [Act](#) is to allow the police and the prosecution service to commence criminal proceedings as early as possible with a view to preventing terrorist offences being carried out. The Act permits special investigatory powers to be used when there are 'indications' of a terrorist offence. These powers include surveillance, infiltration, pseudo-purchase and wiretapping. Individuals and vehicles can be searched without specific suspicion of a criminal offence having been committed if there are indications that a terrorist act may be in preparation.

The act further provides that evidence against the suspect may be withheld for a period of time such that he does not know the full extent of the evidence against him until the beginning of the trial. A suspect may also be remanded in custody even when the additional requirement of a grave presumption of guilt has not yet been met.

Section 2: Relevant International Instruments and Obligations

Anti-Terrorism Instruments

Netherlands has ratified 12 of the 13 [UN Conventions on Terrorism](#). The [Convention for the Suppression of Acts of Nuclear Terrorism](#) 2005 has been signed but is yet to be ratified.

Human Rights Instruments

Netherlands is a state party to a number of international human rights instruments, full details of which can be found [here](#). The most important regional treaty is the [European Convention of Human Rights](#) (ECHR) 1950.

Section 3: Useful Reports

❖ CODEXTER Report

An overview of the Dutch counter-terrorism system has been collected by the [Council of Europe Committee of Experts on Terrorism \(CODEXTER\)](#) and can be consulted [here](#). The report outlines Netherlands' national counter-terrorism policy, anti-terrorism legislation, institutional framework and international cooperation instruments.

❖ UN Counter-Terrorism Committee Reports

The Dutch Government has submitted four reports to the [United Nations Counter-Terrorism Committee \(CTC\)](#) on the implementation of [Security Council Resolution 1373 \(2001\)](#).

- The [first report](#) (2001) is divided into three main parts. The first part deals with the financing of terrorism including detailing measures implemented to

freeze terrorist bank accounts and assets. Annexed to the report is a detailed policy document relating to the integrity of the financial sector and the fight against terrorism. The second part focuses on Dutch measures to combat recruitment of terrorists and the supply of terrorist weapons. Also explained are measures taken to deny terrorists a safe haven in the Netherlands, early warning mechanisms and cooperation with other states. In the third section the report discusses steps taken to accelerate exchange of operational information with other states and international organisations; Dutch intentions as to signing and ratifying international conventions; and measures implemented to ensure asylum seekers have not been involved in terrorist activity.

- The [second report](#) (2002) answers 17 questions asked by the CTC in response to the first report submitted by the Netherlands. The report provides specific details on particular aspects of counter-terrorism legislation and policy. There is a particular focus on aspects relating to the financing of terrorism, terrorist weapons and the implementation of international agreements and conventions.
- The [third report](#) (2003) is brief and provides answers to further questions asked by the CTC including questions related to terrorist organisations and implementation of UN Conventions.
- The [fourth report](#) (2005) focuses on the effectiveness of measures taken to combat terrorism.

In August 2006 the Netherlands submitted a [report](#) to the CTC concerning the implementation of [Security Council Resolution 1624](#) (2005).