

## ACT CONCERNING THE VALIDITY OF REPENTANCE

The Chilean legislature promulgated Act No. 19,172, which was published in the *Diario Oficial* on 4 November 1992; this Act regulates the validity of repentance in respect of any person who leaves an unlawful terrorist association of which he/she was a part, provided that he/she does so before a judgement is handed down at the end of a trial.

The purpose of this Act is to exempt from the penalties set forth in Act No. 18,314, article 3, any person who was part of an unlawful terrorist association, and also to exempt from criminal sanction the authors of an attempt, conspiracy or serious and credible threat to commit terrorist offences.

Anyone who has participated in other terrorist offences, that is to say anyone who has committed any of the acts characterized as an offence in Act No. 18,314, article 2, paragraphs 1 to 4, may also claim exemption under this Act.

In such case, a person who invokes the Act concerning the validity of repentance is not exempt from punishment; however, the punishment may be reduced by up to two degrees, provided that the person complies with the following requirements: (a) hands over or reveals to the authorities, information that actually serves to give warning of or to prevent the commission or completion of terrorist offences, and those responsible are named and arrested; and (b) actually helps to disband the unlawful association to which he/she belonged, or a substantial part thereof, by providing information that was not known, such as plans, names of members or the whereabouts of the leaders and members.

The Act establishing the validity of repentance was characterized as a legal text having temporary validity, in that anyone wishing to claim exemption under that Act had four years as from the date of its publication in the *Diario Oficial* in which to do so.

## IX. CHINA<sup>20</sup>

### 1. PROVISIONS OF THE CRIMINAL LAW OF THE PEOPLE'S REPUBLIC OF CHINA AS REVISED AT THE FIFTH MEETING OF THE STANDING COMMITTEE OF THE EIGHTH NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA ON 14 MARCH 1997

*Article 114.* Whoever commits arson, breaches a dike, causes explosion, spreads poison or uses other dangerous means to sabotage any factory, mine, oilfield, harbour, river, water source, warehouse, house, forest, farm, threshing

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<sup>20</sup> Transmitted to the Secretariat by that Government on 26 June 1998. Also available for consultation from the Codification Division, Office of Legal Affairs is the Decision Regarding the Severe Punishment of Criminals who Abduct and Traffic in or Kidnap Women or Children, 1991.

ground, pasture, key pipeline, public building or any other public or private property, thereby endangering public security but causing no serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

*Article 115.* Whoever commits arson, breaches a dike, causes explosion, spreads poison or inflicts serious injury or death on people or causes heavy losses of public or private property by other dangerous means, shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever negligently commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

*Article 116.* Whoever sabotages a train, motor vehicle, tram, ship or aircraft to such a dangerous extent as to overturn or destroy it, but with no serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

*Article 117.* Whoever sabotages a railroad, bridge, tunnel, highway, airport, waterway, lighthouse or sign or conducts any other sabotaging activities to such a dangerous extent as to overturn or destroy it, but with no serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

*Article 118.* Whoever sabotages any electric power or gas facility or any other inflammable or explosive equipment, thereby endangering public security, but causing no serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

*Article 119.* Whoever sabotages any means of transport, transportation facility, electric power facility, gas facility, or inflammable or explosive equipment, thereby causing serious consequences, shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever negligently commits the crime mentioned in the preceding paragraph shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

*Article 120.* Whoever forms, leads or actively participates in a terrorist organization shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance.

Whoever, in addition to the crime mentioned in the preceding paragraph, commits other crimes of homicide, explosion or kidnap shall be punished in accordance with the provisions on combined punishment for several crimes.

*Article 121.* Whoever hijacks any aircraft by means of violence, coercion or by any other means shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment; any hijacker who causes serious injury to or death of any other person or serious damage to the aircraft shall be sentenced to death.

*Article 122.* Whoever hijacks a ship or motor vehicle by means of violence, coercion or by any other means shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years; if there are serious consequences, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment.

*Article 123.* Whoever uses violence against any person on board an aircraft and thereby endangers air safety, if there are no serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if there are serious consequences, he shall be sentenced to fixed-term imprisonment of not less than five years.

*Article 125.* Whoever illegally manufactures, trades in, transports, mails or stores any guns, ammunition or explosives shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

Whoever illegally trades in or transports nuclear materials shall be punished according to the provisions of the preceding paragraph.

Where a unit commits any of the crimes mentioned in the preceding two paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the first paragraph.

*Article 239.* Whoever kidnaps another person for the purpose of extorting money or property or kidnaps another person as a hostage shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and also to a fine or confiscation of property; if he causes death to the kidnapped person or kills the kidnapped person, he shall be sentenced to death and also to confiscation of property.

## 2. DECISION EXERCISING CRIMINAL JURISDICTION OVER THE CRIMES PRESCRIBED IN THE INTERNATIONAL TREATIES TO WHICH THE PEOPLE'S REPUBLIC OF CHINA IS A PARTY OR HAS ACCEDED, 1987

Decision of the Standing Committee of the National People's Congress on Exercising Criminal Jurisdiction over the Crimes Prescribed in the International Treaties to Which the People's Republic of China Is a Party or Has Acceded (Adopted at the 21st Meeting of the Standing Committee of the Sixth National People's Congress on 23 June 1987)

The 21st Meeting of the Standing Committee of the Sixth National People's Congress resolves that the People's Republic of China shall, within the scope of its treaty obligations, exercise criminal jurisdiction over crimes prescribed in the international treaties to which the People's Republic of China is a party or has acceded.

Appendices:

The relevant clauses of the international conventions

I. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents

The second paragraph of Article 3

Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

Article 7. The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

II. Convention for the Suppression of Unlawful Seizure of Aircraft

The second paragraph of Article 4

Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

Article 7. The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to

submit the case to its competent authorities for the purpose of prosecution.

Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

### III. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation

The second paragraph of Article 5

Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 (a), (b) and (c), and in Article 1, paragraph 2, insofar as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

Article 7. The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution.

Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

### IV. Convention on the Physical Protection of Nuclear Material

The second paragraph of Article 8

Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is present in its territory and it does not extradite him pursuant to Article 11 to any of the States mentioned in paragraph 1.

### V. International Convention Against the Taking of Hostages

The second paragraph of Article 5

Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this Article.

The first paragraph of Article 8

The State Party in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its

competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

### 3. DECISION REGARDING THE SEVERE PUNISHMENT OF CRIMINALS WHO SERIOUSLY ENDANGER PUBLIC SECURITY, 1983.

Decision of the Standing Committee of the National People's Congress Regarding the Severe Punishment of Criminals Who Seriously Endanger Public Security. (Adopted at the Second Meeting of the Standing Committee of the Sixth National People's Congress on 2 September 1993, and promulgated for implementation by order No. 3 of the President of the People's Republic of China on 2 September 1983)

In order to maintain public security, ensure the safety of the lives and property of the people and safeguard the smooth progress of the socialist construction, it is imperative to subject criminals who seriously endanger public security to severe punishment. To this end it is decided:

1. Punishment above the maximum punishment stipulated in the Criminal Law, up to and including death sentences, may be inflicted on the following criminals who seriously endanger public security:

- (1) ringleaders of criminal hooligan groups or those who carry lethal weapons to engage in criminal hooligan activities, if the circumstances are serious, or those who engage in criminal hooligan activities leading to especially serious consequences;
- (2) whoever intentionally inflicts serious bodily injury upon another person or causes the person's death, if the circumstances are flagrant, or whoever commits violence and injures a state functionary or citizen who has accused, exposed or arrested a criminal or stopped a criminal act;
- (3) ringleaders of groups who abduct and traffic in human beings, or whoever abducts and traffics in human beings, when the circumstances are especially serious;
- (4) whoever illegally manufactures, trades in, transports, steals or forcibly seizes guns, ammunition or explosives, when the circumstances are especially serious or when serious consequences are caused;
- (5) whoever organizes reactionary secret societies or uses feudal superstition to carry out counterrevolutionary activities, thereby seriously endangering public security; or

(6) whoever lures or forces women into prostitution or shelters her in prostitution, when the circumstances are especially serious.

2. Whoever imparts criminal methods, when the circumstances are relatively minor, shall be sentenced to fixed-term imprisonment of not more than five years; when the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years; and when the circumstances are especially serious, he shall be sentenced to life imprisonment or death.

3. This Decision shall, upon its promulgation, be applicable to the adjudication of the criminal cases mentioned above.

Appendix:

The relevant articles in the Criminal Law

*Article 160.* Where an assembled crowd engages in affrays, creates disturbances, humiliates women or engages in other hooligan activities that undermine public order, if the circumstances are flagrant, the offenders shall be sentenced to fixed-term imprisonment of not less than seven years, criminal detention or public surveillance.

Ringleaders of hooligan groups shall be sentenced to fixed-term imprisonment of not less than seven years.

*Article 134.* Whoever intentionally inflicts bodily injury upon another person shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention.

Whoever, by committing the crime mentioned in the preceding paragraph, causes severe injury to another person shall be sentenced to fixed-term imprisonment of not less than three years and not more than seven years; if he causes a person's death, he shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment. Where this Law has other provisions, such provisions shall prevail.

*Article 141.* Whoever abducts or traffics in human beings shall be sentenced to fixed-term imprisonment of not more than five years; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

*Article 112.* Whoever illegally manufactures, trades in or transports guns or ammunition or steals or forcibly seizes the guns or ammunition of state organs, members of the armed forces, the police or the people's militia shall be sentenced to fixed-term imprisonment of not more than seven years; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment.

*Article 99.* Whoever organizes or uses feudal superstition, superstitious sects or secret societies to carry on counterrevolutionary activities shall be sentenced to fixed-term imprisonment of not less than five years; if the circumstances are relatively minor, the offender shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.

*Article 140.* Whoever forces a woman to engage in prostitution shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years.

*Article 169.* Whoever, for the purpose of profit, lures women into prostitution or shelters them in prostitution shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years and may concurrently be sentenced to a fine or confiscation of property.

#### 4. DECISION REGARDING THE PUNISHMENT OF CRIMINALS ENGAGED IN AIRCRAFT HIJACKING, 1992

Decision of the Standing Committee of the National People's Congress Regarding the Punishment of Criminals Engaged in Aircraft Hijacking (Adopted at the 29th Meeting of the Standing Committee of the Seventh National People's Congress on 28 December 1992, and Promulgated for implementation by Order No. 67 of the President of the People's Republic of China on 28 December 1992)

With a view to punishing aircraft hijacking criminals and safeguarding the safety of passengers and aircraft, it is hereby decided as follows;

Whoever hijacks any aircraft by means of violence, intimidation or in any other manner shall be sentenced to fixed-term imprisonment of no less than 10 years or life imprisonment; any hijacker who causes serious bodily injury to or death of any other person, or serious damage to the aircraft, or if the circumstances are especially serious, shall be sentenced to death; and if the circumstances are relatively minor, the hijacker shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years.