

I. ALBANIA¹

SUMMARY OF LEGISLATION OF ALBANIA RELATED TO TERRORISM

(a) Constitutional provisions

Pursuant to Article 5 of the Constitution, the Republic of Albania applies international law that is binding upon it.

Article 122 of the Constitution states:

1. Any international agreement that has been ratified constitutes part of the internal juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, is done with the same majority.
2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.
3. The norms issued by an international organization have superiority, in case of conflict, over the laws of the country if the agreement ratified by the Republic of Albania for its participation in the organization expressly contemplates their direct applicability.

Moreover, pursuant to article 123 of the Constitution, The Republic of Albania, on the basis of international agreements, delegates to international organizations state powers for specific issues.

(b) Penal Code

The penal legislation of the Republic of Albania expressly prohibits the creation of terrorist groups and the delivery of any kind of assistance to their activities in Albania or abroad. Articles 28, 233 and 234 of the Penal Code of the Republic of Albania No. 7895 dated 27.01.1995, define the armed gang and the criminal organization as forms of a special kind of cooperation that is distinguishable for the number of participants, the level of the organization and the repeated perpetration of criminal offences. The sanctions against them range from imprisonment to five years to life sentence.

¹ Transmitted to the Secretariat by that Government on 31 December 2001 (S/2001/1309, enclosure) and on 29 August 2002 (S/2002/973, enclosure). Information was also provided with respect of Law no. 8610, dated 17 May 2000 "On Prevention of Money Laundering" and the law entitled "On Banks in the Republic of Albania".

The Penal Code also includes some measures aimed to prevent arms supplies for terrorists (articles 278/a and 279 of the Penal Code of the Republic of Albania changed with the law No. 8733 dated 24.01.2001). The sanction under the article 278/a entitled "Trafficking of Weapons and Munitions" ranges from 7 to 15 year imprisonment, whereas the article 279 entitled "Production and Illegal Possession of Small Arms and Light Weapons" provides for punishment with fine or imprisonment of up to 5 years.

The provisions in the Albanian legislation, which are aimed to prevent the terrorists from using the territory of the Republic of Albania for activities against other countries or their citizens, are: article 297 of the Penal Code on "Illegal Border Crossing" and the article 299 of the Penal Code "On Violation of Flight Regulations"

The provisions of the Penal Code of the Republic of Albania aiming at preventing terrorist funding activities are:

Article 30/2 "Supplementary punishments"

Besides the principal punishment, a person who has committed offences or criminal contravention may also be sentenced to one or some of the following supplement punishments:

...

2. Confiscation of the means relevant to the commitment of the criminal act and of the profits deriving from it;

Article 36 "Confiscation of the means for committing the criminal act"

Confiscation is necessarily decided by the court on persons committing criminal acts, and consists in the seizure and transfer in favor of the state of the means which have served or were chosen as a means to commit a criminal act, as well as the objects, money, and any other property resulting from the criminal act or the reward given or promised for its commitment.

Article 287 "Alienation of property"

Alienation, transferring, hiding, disappearing of nature, source, belonging of property originated from criminal activity, is sentenced from three to ten years of imprisonment.

Article 287/a

Financial transactions or other economic actions, which are intended for money laundering or deriving from criminal activities as

well as their re- circulation and use for whatever entrepreneurship or economic activities, is sentenced from five to ten years imprisonment.

When this criminal act is committed in collaboration or more than one time, is sentenced from seven to fifteen years of imprisonment, and, when it has caused serious consensus, it is sentenced not less than fifteen years imprisonment.

Moreover, according to the Albanian Constitution the Convention for the Suppression of Financing Terrorism is directly applicable upon its ratification. However, the relevant institutions of the Republic of Albania will review the provisions of the Penal Code in order to adjust them in accordance with the provisions of the above-mentioned Convention.

Articles 297 and 299 provide the provisions of the Penal Code, which aim to prevent the use by terrorists of the territory of the Republic of Albania. Article 297 titled: "Illegally crossing state border", provides that:

"Illegally crossing the state borders constitutes criminal contravention and is sentenced to a fine or up to two years of imprisonment and when organized for lucrative purposes, it is punishable by imprisonment up to 10 years".

Meanwhile, the article 299 titled "Breach of Flight Rules", provides that:

"Breach of international flight rules such as entering or leaving the territory of the Republic of Albania without a flight permit, ignoring flight lanes, landing places, flight corridors, or designated cruising altitude, is punishable by a fine or up to five years of imprisonment".

In addition, pursuant to Article 111 of the Penal Code, hijacking planes, ships and other means of transportation that carry people is sentenced from ten to twenty years of imprisonment.

The provisions of the Penal Code that intend penalizing terrorist groups or activities are provided by articles 28, 230 and 233 of the same Code (Penal Code).

Article 28 provides punishment for creation and participation in an armed gang or in criminal organization that represent particular form of collusion which differ, not only with respect to the number of participants, but also on their level of organization and persistence to commit a number of criminal acts.

Article 230 of the Penal Code titled, "Terrorist acts", provides that:

"Committing violent acts against the life, health of people, personal freedom through kidnapping of people, or hijacking public transportation, with the intent to seriously disturb public order and

instilling fear and uncertainty in the public is sentenced to no less than fifteen years of imprisonment or to life imprisonment”

Article 233 of the Penal Code titled “Creation of armed gangs” provides that:

“Creating armed gangs to oppose on the public order through violent acts against life, health, personal freedom of the individual, property, with the intent of instilling fear and uncertainty to the public, is sentenced up to ten years of imprisonment”.

Territorial Application

According to article 6/2 of the Penal Code, Criminal law of the Republic of Albania shall also be applicable to the Albanian citizen who commits an offence within the territory of another country, when that offence is concurrently punishable, unless a foreign court has given a final sentence. In the sense of this article, Albanian citizens shall also be considered those persons who hold another nationality besides the Albanian one.

According the article 7/2 of the Penal Code, the penal legislation of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits against the interests of the Albanian State or an Albanian citizen one of the following offences:

- a) crimes against humanity;
- b) crimes against the Albanian independence and its constitutional order;
- c) terrorism;
- d) organization of prostitution, illegal manufacturing and trafficking of drugs, other narcotic substances, of weapons, nuclear substances, as well as pornographic materials;
- e) hijacking airplanes or ships;
- f) falsifying the Albanian state seal, Albanian currency, or Albanian bonds or stocks;
- g) crimes which affect the life or health of Albanian citizens, to which the law provides for a punishment by imprisonment of five years or any other heavier punishment.