

## XLII. GUATEMALA<sup>124</sup>

### SUMMARY OF LEGISLATION OF GUATEMALA RELATED TO TERRORISM

#### (a) Political Constitution

Chapter V, article 245 of the Political Constitution of the Republic of Guatemala establishes the organization and operation of armed groups not regulated by the laws of the Republic as a punishable offence.

#### (b) Penal Code

##### *Offence of illegal armed groups*

The Guatemalan Penal Code, in its Book II, Title XII, Chapter V, establishes so-called offences against social peace; within this category, article 398 of this body of laws establishes the offence of illegal armed groups, providing that persons who organize, form or direct armed groups or militias other than those of the State shall be sentenced to 3 to 10 years' imprisonment.

##### *Offence of militancy in illegal groups*

Article 399 establishes the offence of militancy in illegal groups, providing that any person who is a member of the illegal groups referred to in the preceding article (398) shall be sentenced to two to eight years' imprisonment.

##### *Offence of possessing and bearing firearms*

Article 400 establishes the offence of possessing and bearing firearms, providing that the possession and bearing of firearms or weapons of war, or of ammunition or accessories for them, the use of which is reserved exclusively for the Army of the Republic, shall be penalized by six months' to three years' imprisonment and a fine.

##### *Offence of stockpiling arms or ammunition*

The Guatemalan Penal Code, Legislative Decree No. 17-73, in its Book II, Title XII, Chapter V, establishes so-called offences against social peace; within this category, article 401 establishes the offence of stockpiling arms or ammunition, providing that any person who has or establishes a stock of arms, ammunition or other military supplies, the use of which is reserved exclusively for

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<sup>124</sup> Transmitted to the Secretariat by that Government on 12 December 2001 (S/2001/1272, enclosure). Information was also provided in respect of the Act Against the Laundering of Money or Other Assets.

the Army of the Republic, shall be sentenced to two to six years' imprisonment and a fine.

*Offence of trafficking in explosives*

Within the same category, article 402 establishes the offence of trafficking in explosives, providing that any person who illegally has in his possession, manufactures, transports, traffics in or supplies in any form explosive, flammable or incendiary or asphyxiating substances and instruments or devices for causing them to explode shall be sentenced to 10 to 15 years' imprisonment.

*Support for offences of illegal armed groups*

Article 398 of this body of laws penalizes by 3 to 10 years' imprisonment persons who provide assistance or economic cooperation for the maintenance of armed groups or militias other than those of the State.

Economic cooperation for the maintenance of terrorist groups is penalized by 3 to 10 years' imprisonment (Penal Code, art. 398, second paragraph).

## **XLIII. GUINEA<sup>125</sup>**

### **1. ELEMENTS DU DISPOSITIF LEGISLATIF ET REGLEMENTAIRE DE LA GUINEE**

Les actes de terrorisme sont prévus et punis par les articles 505 et suivants du Code pénal. Les actes de terrorisme, tels qu'ils sont définis par l'article 505 du Code pénal, encourrent une peine variant, selon les circonstances, de 10 ans de détention criminelle à la peine de mort.

Les faits qualifiés de terrorisme obéissent aux règles de poursuite d'instruction et de jugement définies pour les actes criminels de droit commun.

En plus des dispositions du Code pénal guinéen portant sur le terrorisme, les juridictions nationales du pays peuvent connaître de tout acte terroriste ou menace terroriste prévu et puni par les conventions internationales auxquelles la Guinée est partie. Cette disposition découle de l'article 79 de la loi fondamentale guinéenne qui place la norme du droit international au-dessus de la loi nationale et

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<sup>125</sup> Transmitted to the Secretariat by that Government on 12 March 2002 (S/2002/276, enclosure) and on 6 February 2003 (S/2003/258, enclosure). Information was also provided in respect of: Act No. L/96/008 on weapons, ammunition, powders, and explosives; the Code of Criminal Procedure.