

It should be mentioned that, pursuant to Act No. 504 of 1999, the investigation and prosecution of offences, such as terrorism, that cause great social alarm, is carried out by the specialized justice system.

Article 356 of the Code of Criminal Procedure provides that the time limits established for provisional release, in paragraphs 4 and 5, will be doubled when cases are heard by the specialized justice system. This is an important measure, since it enables officials to have a more suitable time-limit for conducting judicial proceedings – bearing in mind the difficulty encountered in such cases, which generally deal with accused persons who belong to powerful criminal organizations – as well as in the submission of evidence.

XXII. COSTA RICA⁵⁴

SUMMARY OF LEGISLATION OF COSTA RICA RELATED TO TERRORISM

The Costa Rican Penal Code contains a number of definitions of offences which, although scattered throughout the Code rather than compiled under a specific section on terrorism, correspond to various acts which may constitute typical acts of terrorism.

Some articles refer to offences expressly linked to terrorism, for instance:

Article 374, defining international crimes, imposes 10 to 15 years' imprisonment on leaders and members of international groups, one of whose aims is to commit terrorist acts. It states:

A sentence of 10 to 15 years' imprisonment shall be imposed on anyone heading or participating in international organizations that engage in trafficking of slaves, women, children or drugs or in acts of terrorism, or that violate provisions of human rights treaties to which Costa Rica is a party.

⁵⁴ Transmitted to the Secretariat by that Government on 24 December 2001 (S/2001/1279, appendix), on 12 July 2002 (S/2002/864, enclosure) and on 31 March 2003 (S/2003/453, enclosure). Information was also provided in respect of Act No. 8204 amending the Act on narcotic drugs, psychotropic substances, unauthorized drugs and related activities, the Civil Aviation Act No. 5150 of 14 May 1973 and the Associations Act.

Article 274 imposes one to six years' imprisonment for unlawful association, i.e. association with criminal intent, and increases the penalty to three to 10 years' imprisonment if the purpose of the association is to commit terrorist acts.

Article 246 imposes penalties of varying severity depending on the aggravating circumstances, in cases where fire or explosion is used to create a collective threat to persons or property. The second paragraph of this article states that "for the purposes of this article and of articles 274 and 374, the following shall be considered terrorist acts:

- (a) The acts described in articles 215 (5) and (6) and 260 of this Code;
- (b) Attempts on the life or physical integrity of public officials, diplomats or consular officials accredited in Costa Rica or passing through its territory;
- (c) Attacks on ships, aircraft on the ground, public transport vehicles and official or public buildings, in which firearms or explosives are used or a fire or explosion is caused."

Other articles of the Penal Code penalize illicit acts which, although not defined as terrorist acts, could be of use in prosecuting and punishing those who commit terrorist acts:

Article 229 imposes six months' to three years' imprisonment for aggravated damage in the following cases:

- (a) If the damage is done to items of scientific, artistic, cultural or religious value when, by virtue of their location, they are entrusted to the public or intended for the service, use or reverence of an indeterminate number of persons;
- b) If the damage is done to means or channels of communication, means of transport, roads or railways, bridges or canals, or to plants which produce or distribute water, electricity or sources of energy;
- (c) If the act is committed with violence against persons or with threats; and
- (d) If the act is carried out by three or more persons.

Article 247 provides that the penalties imposed in article 246 will apply to persons who cause criminal damage by means of flooding, collapse or demolition of a building or any other powerful means of destruction.

Article 248 imposes one to four years' imprisonment on any person who damages or disables dikes or other structures designed to protect the public against

disasters, thereby creating the risk that such disasters will occur; if the disaster does occur, the penalty is increased at the discretion of the judge.

Article 250 imposes for four to eight years' imprisonment on any person who, for the purpose of contributing to the commission of offences, manufactures, supplies, acquires, steals or possesses bombs or explosive, inflammable, asphyxiating or toxic materials, or substances or materials for their preparation. The same penalty is imposed on any person who, in a situation where he or she knows or should assume that he or she is contributing to the commission of offences, gives instructions for the preparation of the substances or materials referred to in the previous paragraph. A penalty of two to four years' imprisonment is imposed on any person who has such materials in his or her possession, for purposes other than those indicated above, without the authorization of the appropriate authorities.

Article 251 imposes two to six years' imprisonment on any person who knowingly carries out any act which endangers the safety of a ship, floating structure or aircraft. If the act causes a shipwreck, a running aground or an aviation accident, the penalty is increased to six to 12 years' imprisonment. The penalty is six to 15 years' imprisonment if the accident causes injury to any person and eight to 16 years if it causes death.

Article 252 imposes one to six years' imprisonment on any person who knowingly commits an act which endangers the safety of a train, cable car or other means of overland transport. The penalty is six to 15 years' imprisonment if the act causes a derailment, collision or other serious accident and from eight to 18 years if it results in death.

Article 253 penalizes attacks on public safety, including attacks on plants, engineering works and facilities designed for the production or transmission of electric power or energy sources, and attacks on the security of any means of telecommunication. If such acts cause a disaster, the penalty is three to eight years' imprisonment.

Article 258 penalizes the offence of piracy, imposing three to 15 years' imprisonment on, *inter alia*, any person who seizes a ship or anything belonging to its crew by means of fraud or violence against its captain.

Article 259 increases the penalty to no less than 10 years' imprisonment if the acts cause the death of any person who is on board the ship that is attacked.

Article 261 imposes a penalty of three to 10 years' imprisonment on any person who poisons, contaminates or adulterates, in a manner hazardous to health, water, foodstuffs or medicines intended for public or community use. If the act results in the death of a person, the penalty is eight to 18 years' imprisonment.

It should be noted that most of the above offences are punishable by prison terms of over four years, which means that they may fall within the scope of

the new Act No. 8204 and that the penalties and financial controls provided for in that Act may be applicable to them.

Territorial application

Article 5 – Extraterritoriality:

The criminal law of Costa Rica shall also apply to punishable laws committed abroad whenever:

1. they impugn the internal or external security of the State, or its economy, and
2. they are committed against the public administration or, by officials in its service, whether Costa Rican citizens or others.”

Article 6 – Possibility of initiating legal proceedings for punishable acts committed in other countries:

Legal proceedings may be initiated for punishable acts committed in other countries, and Costa Rican law may apply, when such acts:

1. Produce or may produce effects wholly or in part in the national territory;
2. Were committed by persons in the service of Costa Rica, and such persons have not been tried in the place where the acts were committed owing to diplomatic immunity or their immunity of office; and
3. Are perpetrated against a Costa Rican or the rights of a Costa Rican.

Article 7 – International Crimes:

Irrespective of the provisions in force in the place where a punishable act is committed and the nationality of the perpetrator, persons committing punishable acts against human rights as stipulated in treaties to which Costa Rica is a party or in this Code shall be subject to punishment under Costa Rican law. In accordance with article 374, terrorism is considered an international crime.

However, article 8 of the same Code states that in the cases described in articles 6 and 7, in order for crimes to be punishable in Costa Rica, it is necessary for the offender to be in the national territory; this is not true for cases covered by article 5, for which only State action is required.

Article 8

Irrespective of the provisions in force in the place where a punishable act is committed and the nationality of the perpetrator, persons committing acts of piracy, genocide, counterfeiting of money, credit instruments, banknotes and other bearer bonds; engaging in the trafficking of slaves, women or children; engaging in the trafficking of narcotics or obscene material or committing other punishable acts against human rights as stipulated in treaties to which Costa Rica is a party or in this Code shall be subject to punishment under Costa Rican law.

The provisions of the Costa Rican Penal Code are not applicable to acts committed outside Costa Rica by a foreign national who is currently in Costa Rica; such a person would simply be the subject of extradition, in accordance with the extradition treaties to which our country is a party.

Recruitment

The current Penal Code does not specify that the recruitment of persons to commit acts of terrorism is a crime but, as with the financing of terrorism, the definitions of accessory, co-perpetrator and instigator could be applied to those who recruit persons to commit terrorist acts that are actually carried out.

Costa Rica also has the offence of unlawful association (art. 274 of the Penal Code), which carries with it a sentence of one to six years' imprisonment for "anyone taking part in an association of two or more persons with the aim of committing offences, simply by virtue of membership in the association". The sentence is increased to three to ten years' imprisonment "if the aim of the association is to carry out acts of terrorism". Similarly, article 374 imposes sentences of ten to fifteen years on leaders and members of international groups, one of whose aims is to commit terrorist acts. These provisions are currently sufficient to prosecute and punish any person who is part of a terrorist group. At the same time, we could, if necessary, consider including in the special law on terrorism a new criminal offence expressly prohibiting the recruitment of terrorist groups.⁵⁵

Thus, in accordance with current legislation, unlawful international association to commit terrorist acts is covered under Chapter XVII concerning offences against human rights. As stated earlier, in accordance with article 7 of the Penal Code, anyone who commits "punishable acts against human rights as stipulated in treaties to which Costa Rica is a party" shall be subject to

⁵⁵ Current legislation regarding unlawful association of an international nature does not spell out whether the offences for which the association was established must be committed inside or outside the country. Nevertheless, it can be interpreted in both ways, especially regarding article 374 which mentions the crimes of trafficking and terrorism, which usually have transnational implications. In speaking of terrorist acts, it does not specify whether they are only against States or only against citizens of other countries; therefore, it is understood that it would apply in both cases.

punishment. In other words, unlawful association to commit terrorist acts shall always be punishable in Costa Rica even when the acts are committed outside the country, in the same way as human rights violations that may occur as a result of terrorist acts. In any case, as explained above, the draft Law on the strengthening of Costa Rican legislation against terrorism includes a proposed amendment of article 374 to include an express reference to terrorist acts committed outside the country.

Furthermore, in cases where terrorist acts are executed outside the country, or are not actually committed, articles 274 and 374 of the Penal Code establish penalties for belonging to national or international organizations whose aim is to commit terrorist acts. The offence of “unlawful association” arises as soon as at least two persons agree to commit a crime. Therefore, even if the recruiter does not belong to a terrorist organization, from the moment he recruits at least one other person he has committed the offence of unlawful association.

XXIII. COTE D’IVOIRE⁵⁶

ELEMENTS DU DISPOSITIF LEGISLATIF ET REGLEMENTAIRE DE LA COTE D’IVOIRE

La législation locale de la Cote D’Ivoire ne fait pas mention de la notion de terrorisme, elle se prononce cependant sur les cas d’attentat. Ainsi, l’*article 158* du Code pénal ivoirien relatif aux attentats dispose que :

Est puni de la détention à vie, l’attentat dont le but est soit :

- De détruire ou de changer le régime constitutionnel;
- D’exciter les citoyens ou habitants à s’armer contre l’autorité de l’État ou s’armer les uns contre les autres;
- De porter atteinte à l’intégrité du territoire national;
- D’organiser le massacre et la dévastation.

Par ailleurs, le Code pénal en son *article 27* qui permet de punir de la même peine que l’auteur, le coauteur et le complice de l’attentat, dispose que :

Est complice d’un crime ou d’un délit, celui qui, sans prendre une part discrète ou déterminante à sa réalisation :

⁵⁶ Transmitted to the Secretariat by that Government on 3 January 2002 (S/2002/75, enclosure).