

## XXV. CUBA<sup>59</sup>

### 1. SUMMARY OF LEGISLATION OF CUBA RELATED TO TERRORISM

In addition to the Law against acts of terrorism<sup>60</sup>, terrorism is also covered in Law No. 62 (Penal Code), which in Title I, relative to crimes against the security of the State, chapter II, seventh section, article 106, provides for the crime of terrorism and specifies penalties ranging from 10 to 20 years' imprisonment or the death penalty.

Law No. 62 (Penal Code), in Book II of the Special Part includes four chapters containing 33 articles on terrorism. These articles provide for very harsh maximum sentences. (The parts of this Code that deal with terrorism and related offences were repealed with the enactment by the National Assembly of People's Power, on 20 December 2001, of the Law against terrorist acts).

Chapter X of the Penal Code, which deals in articles 211 and 213 with the illegal carrying and possession of firearms and explosives, also provides for penalties ranging from fines to prison sentences lasting between six months and 10 years, depending on the type of weapon; the place and action; whether possession or carrying was involved; manufacture; and the sale and delivery of firearms or explosives.

Furthermore, articles 110, 111 and 112 of the Penal Code establish penalties for those who carry out enlistment or other hostile acts against a foreign State or recruitment in the national territory for the military service of a foreign State and for those who carry out an act intended to undermine the independence of a foreign State.

#### *Territorial Application*

Article 5 of the Penal Code establishes that "Cuban penal law is applicable to Cubans and non-citizens resident in Cuba who commit a crime abroad, if they are in Cuba or have been extradited; to Cubans who commit a crime abroad and are surrendered to Cuba to be prosecuted by its courts, in accordance with agreements concluded; and to foreigners and non-citizens not resident in Cuba who commit a crime on foreign soil, if they are in Cuba and have not been extradited, whether they reside in the territory of the State in which the acts are perpetrated or in any other State, so long as such action is also punishable in the place where it was committed," a requirement which is not applicable if the act constitutes a crime against the fundamental, political or economic interests of

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<sup>59</sup> Transmitted to the Secretariat by that Government on 27 December 2001 (S/2002/15, enclosure) and on 24 September 2002 (S/2002/1093, enclosure).

<sup>60</sup> See section 2 *infra*.

the Republic, or against humanity, human dignity or collective health, or is justiciable under international agreements.

## 2. LAW AGAINST ACTS OF TERRORISM

Ricardo Alarcón de Quesada, President of the National Assembly of People's Power of the Republic of Cuba.

BE IT KNOWN: That the National Assembly of People's Power, at the eighth regular session of the fifth legislature, held on 20 and 21 December 2001, has adopted the following.

### *Introduction*

#### *Law against Acts of Terrorism*

This Law is founded upon the deeply held ethical and political convictions that have always inspired the Cuban Revolution, and represents an expression of our determination to reject and condemn, by means of specific legal measures, the methods and practices of terrorism.

Moreover, the people of Cuba unquestionably possess the moral authority to do so because they have been victimized by such crimes for over forty years and because, despite the high cost of the deaths and injuries suffered by thousands of Cubans, as well as the tremendous moral prejudice and property losses inflicted on the country, Cuba has always dealt with these losses with legitimate resources and not through war which, by its very nature and outcome, is also a form of terrorism which Cuba strongly repudiates.

By enacting this Law, Cuba is contributing to the implementation of the provisions contained in the international instruments recognized by the United Nations as conventions against terrorism to which our country is a party, including those which were recently ratified at a special session of the National Assembly of People's Power.

The Law is comprised of two titles, ten chapters, 28 articles, a special provision and three final provisions.

While the text of the Law does not provide an exhaustive definition of terrorism, it does describe its general characteristics and, in particular, the various acts which constitute this criminal activity. Thus, the Law is based on the definitions of different manifestations of terrorism set forth in the aforementioned international conventions and agreements, as well as certain offences included in the Penal Code currently in force in our country. These offences have been included in the Law in order to reaffirm that they are acts of terrorism, bearing in

mind the definitions of such acts in those instruments and in order to avoid duplicating similar legal norms.

Special attention is paid to the ways in which terrorist acts are carried out, including those relating to chemical or biological weapons, which have recently given rise to special concern within the international community. Such weapons have been used against Cuba on several occasions for many years, causing loss of human life and considerable property damage among our people.

The general provisions also include certain rules which under our substantive penal law must be set down as specific offences in order to make them applicable, such as those referring to the punishment of preparatory acts and the related penalty of confiscation of goods.

Another important norm is that providing for preventive attachment or freezing of funds and other financial assets or of property or economic resources of alleged offenders, independently of the degree of participation in the offence, and of persons and entities acting on behalf of or under the control of alleged offenders.

The general section of the Penal Code and of the Law on Military Offences are to be considered complementary to this Law, in order to avoid the repetition of many provisions. This is also the case with the Law on Penal Procedures and the Law on Military Penal Procedures since, given the special nature of this legislation, it was considered necessary to reaffirm clearly the procedural rules that are applicable.

Some of the most important rules are those pertaining to the effect in space of the Law against Acts of Terrorism, given that for purposes of punishment, the Law stipulates that the offences shall be deemed to have been committed in Cuban territory both when the perpetrator prepares for or carries out the acts in Cuba, even if they produce an effect in another country, and when the preparatory acts are carried out on foreign soil but produce an effect in Cuba. In addition, Cuban courts shall recognize the validity of firm sentences and penalties handed down by foreign courts in determining the matter of recidivism or multi-recidivism.

The single special provision instructs the Government to sign agreements and conventions with States that are willing to promote international cooperation in a number of substantive aspects in the struggle to prevent, suppress and eradicate terrorism.

In establishing the penalties for the offences, the following considerations have been borne in mind:

- (a) to respect, insofar as possible, the scale of penalties established in the Penal Code and avoid creating other, different penalties, which

would be unnecessary and would create inconsistencies between offences of similar gravity already existing in both legal texts;

(b) to establish more severe penalties for offences that have very serious consequences (death, serious injury and substantial and significant damage).

The text includes terms taken from the international instruments on which it is based, as established in article 4, so that it is not necessary to reproduce them in full in the body of the Law, which would make it unduly long. Instead, the relevant details are set forth in the annexes.

Other terms used in the text which are not defined in the aforementioned international instruments, as regards meaning and scope, shall be defined as provided in the relevant legislation currently in force in our country.

This Law against acts of terrorism is adopted at this time bearing in mind the circumstances prevailing on the world scene. It represents another significant legal step in the battle of ideas in which the Cuban people are involved.

WHEREAS: The people of Cuba have been victims of numerous acts of terrorism which have caused serious harm to people, as well as moral prejudice and property damage, for over forty years.

WHEREAS: Cuba bases its protection against terrorist actions on its defence system, which is based on the invaluable participation and support of its people. Our essential premise is to prevent such acts in order to prevent their harmful consequences, both on our territory and anywhere in the world.

WHEREAS: The international community, in many different legal instruments to which Cuba is a party, has agreed to join efforts to present a more coordinated and effective front against the various manifestations of terrorism.

WHEREAS: The National Assembly of People's Power, on behalf of the people of Cuba:

- Rejects and condemns the acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed and for whatever reasons, including those which jeopardize relations among States and peoples and threaten and represent an attack against the territorial integrity, peace and security of States. Terrorism is a dangerous and ethically indefensible phenomenon which must be eradicated.

- Reaffirms its unswerving determination to never allow the territory of the Cuban State to be used to organize, instigate, support or execute terrorist actions and the firm determination to cooperate reciprocally with all countries to prevent and suppress acts of terrorism.

- Firmly stands by its decision not to allow the entry into Cuba of individuals who qualify as terrorists under the laws of our country.
- Repudiates war as a method of confrontation and combat against terrorism, as its consequences of death and destruction, rather than focusing on the terrorists themselves, seriously affect innocent and defenceless people, whose living conditions are worsened by the destruction of their economic and social infrastructure. War aggravates the causes and conditions that lead to terrorism.
- Ratifies its decision to continue its struggle for peace, as well as its determination that friendship and collaboration between all States, peoples and civilizations, set in a context of respect for the principles of sovereignty and independence and the rules of international law, shall be the basis for joining efforts and increasing cooperation between all countries in the fight against terrorism.
- Recognizes that the General Assembly of the United Nations, its competent bodies and the international instruments in this field, are the appropriate forums for coordinating, joining and leading the efforts of the international community to confront and combat terrorism anywhere and in whatever form it is manifested.

THEREFORE: By the powers vested in it by article 73(b) of the Constitution of the Republic of Cuba, the National Assembly of People's Power adopts the following:

## LAW AGAINST ACTS OF TERRORISM<sup>61</sup>

### TITLE I

#### GENERAL PROVISIONS

##### *Article 1.*

1. The purpose of this Law is to prevent and punish the acts described in the articles below which, because of the manner in which they are executed and the means and methods used, are evidently intended to provoke states of alarm, fear or terror among the population, and which represent an imminent danger to or affect the life or physical or mental integrity of persons, as well as to significant or important material assets, to international peace or to the security of the Cuban State.

2. For purposes of punishment, the events referred to in the above paragraph shall be deemed to have been committed on Cuban soil both if the perpetrator uses Cuban territory to carry out preparatory acts or acts related to

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<sup>61</sup> Law No. 93.

execution, even if their effects are produced in another country, and if those acts are carried out on foreign soil and their effects are produced in Cuba.

*Article 2.*

The provisions of the General Section of the Penal Code and of the Law on Military Offences, and in the laws relating to penal procedures and military penal procedures, as the case may be, shall be applicable to the matters governed by this Law.

*Article 3.*

The offences envisaged in this Law shall be punishable independently of those defined in the Penal Code or, as the case may be, in the Law on Military Offences, and of crimes committed in connection with the offences referred to in such laws.

*Article 4.*

In determining the content and scope of the concepts referred to in the text of this Law, the relevant definitions established by relevant international treaties and conventions to which the Cuban State is a party shall apply, including the following: vessels, explosives, internationally protected person, aircraft in flight, aircraft in service, public or government facilities, infrastructure facilities, explosive device or other deadly devices, military forces of a State, place of public use, public transport system, fixed platform and funds. These expressions are defined in the annexes to this Law.

*Article 5.*

Under this Law, preparatory acts, attempts and consummated acts of terrorism shall be punishable in connection with the offences envisaged in this Law. Likewise, under the rules established in the Penal Code for preparatory acts, the following shall be punished:

- (a) any person who, having decided to commit one of the offences envisaged in this Law, proposes to another or to other persons that they participate in carrying out the act in question;
- (b) any person who conspires with one or more persons to carry out some of the offences envisaged in this Law, and they decide to commit them;
- (c) any person who incites or induces another or other persons, by spoken word, in writing or in any other form, publicly or privately, to carry out some of the offences envisaged in this Law. If the offence is committed following such incitement or inducement, the person who

provokes it shall be punished as the perpetrator of the offence committed.

*Article 6.*

In respect of the offences referred to in this Law, the court may reduce the minimum punishment envisaged by as much as two thirds or in exceptional cases, exempt a defendant from criminal liability, when:

- (a) the defendant has voluntarily abandoned his criminal activities and appears before the authorities confessing those acts in which he has participated;
- (b) the perpetrator has abandoned his criminal contacts, has prevented or substantially decreased the danger in a situation, prevented a harmful outcome or effectively contributed to obtaining decisive evidence leading to the identification or capture of other suspects or to throwing light on the situation.

*Article 7.*

1. A punishment that has been imposed by a definitive sentence handed down by a foreign court may be taken into account by the Cuban courts for purposes of determining recidivism or, as the case may be, multi-recidivism, with respect to defendants accused of offences envisaged in this Law.
2. The aforementioned firm sentence shall be confirmed in accordance with the relevant regulations of the Ministry of Justice.

*Article 8.*

The pre-trial judge, the government attorney or the court, depending on the stage at which the proceedings relating to offences covered by this Law are, may issue forthwith an order for the preventive attachment or freezing of the funds and other financial assets, or of economic assets or resources of the defendants, irrespective of the degree to which they have participated in the punishable act, and of any persons or entities that have acted on behalf of the defendants and entities under the defendant's orders, including funds obtained or arising from assets belonging to or under the control, direct or indirect, of the defendants and of persons and entities associated with them.

*Article 9.*

In respect of the offences envisaged in this Law, the court may, as an accessory penalty, order the confiscation of the defendant's assets, as provided for in article 44 of the Penal Code.

## TITLE II

### ON ACTS OF TERRORISM

#### *Chapter I*

*Acts committed with an explosive or deadly device, chemical or biological agents or other means or substances*

##### *Article 10.*

Anyone who manufactures, facilitates, sells, transports, remits, introduces into the country or has in his power, in any form or place, arms, munitions or flammable, asphyxiating or toxic materials, substances or instruments, plastic or any other kind of explosives or chemical or biological agents or any other element from which products of the nature described or any other similar substance or explosive or deadly substance can be developed as a result of research, design or combination, shall be subject to ten to thirty years imprisonment, life imprisonment or death.

##### *Article 11.*

The same penalty shall apply to anyone who delivers, places, throws, disseminates, detonates or in any other way uses an explosive or deadly device or any other means or substance described in article 10, against:

- (a) a public gathering place;
- (b) a public or government facility;
- (c) a public transport system or any of its components;
- (d) an infrastructure facility;
- (e) crops, forests, pastures, cattle or poultry;
- (f) camps, warehouses, arms, construction sites or military facilities in general.

##### *Article 12.*

1. Any person who adulterates food or other types of substances or products intended for human consumption in such a way that they could cause death or be harmful to human health shall be subject to ten to twenty years imprisonment.



2. If, as a result of the acts described in the preceding paragraph, any person is seriously injured or killed, the penalty shall be ten to thirty years imprisonment, life imprisonment or death.

#### *Article 13.*

1. Any person who carries out an act against the life, physical integrity, freedom or safety of anyone who by the nature of his or her activities is well-known in society, or against that person's closest relatives, shall be subject to ten to thirty years imprisonment, life imprisonment or death.

2. If the act carried out is intended to destroy or significantly damage the assets of the individuals referred to in the preceding paragraph, the penalty shall be imprisonment of four to ten years.

### *Chapter II*

#### *Taking of Hostages*

#### *Article 14.*

1. Anyone who seizes another person or holds that person against his and her will and threatens to kill, wound or hold him or her in order to compel a State, an intergovernmental organization, an individual or a legal entity or a group of persons to perform or abstain from performing any act, as an explicit or implicit condition for the release of the hostage shall be subject to ten to twenty years imprisonment.

2. If as a result of the actions described in the preceding paragraph one or more persons are killed or seriously injured or the condition for the liberation of the hostage is complied with, the penalty shall be ten to thirty years imprisonment, life imprisonment or death.

### *Chapter III*

#### *Acts against Internationally Protected Persons*

#### *Article 15.*

1. Any person who carries out an act against the life, physical integrity, freedom or safety of an internationally protected person or of any relative belonging to that person's household shall be subject to ten to thirty years imprisonment, life imprisonment or death.

2. Anyone who carries out an act against the official premises, the private residence or means of transport of the internationally protected person and thereby endangers that person's life, physical integrity, freedom or safety shall be subject to imprisonment of four to ten years.

## *Chapter IV*

### *Acts against the Safety of Maritime Navigation*

#### *Article 16.*

1. Any person who commits the following acts shall be subject to imprisonment of ten to thirty years:

- (a) seizes or exercises control over a vessel by force or threat thereof or any other form of intimidation;
- (b) performs an act of violence against a person on board a vessel if that act is likely to endanger the safe navigation of said vessel;
- (c) destroys a vessel or causes damage to a vessel or to its cargo which is likely to endanger the safe navigation of that vessel;
- (d) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a vessel;
- (e) communicates information which he and she knows to be false, thereby endangering the safe navigation of a vessel.

2. If, in connection with the commission of any of the acts mentioned in the preceding paragraph, one or more persons is seriously injured or killed, the penalty shall be imprisonment of fifteen to thirty years, life imprisonment or death.

## *Chapter V*

### *Acts against the Safety of Civil Aviation or Airports*

#### *Article 17.*

Any person who, while on board an aircraft in flight, seizes or exercises control over such aircraft by force or threat thereof or any other illicit act, or who endangers the safety of the aircraft, shall be subject to imprisonment of ten to thirty years.

#### *Article 18.*

The same penalty shall be applicable to any person who endangers or might endanger safety at an airport by:

- (a) performing an act of violence or intimidation against a person;

- (b) destroying or causing serious damages in the airport facilities or on an aircraft that is not in service and is located at the airport, or interfering in any way with the services provided there.

*Article 19.*

The same penalty shall be applicable to any person who endangers or might endanger the safety of an aircraft as follows:

- (a) performs an act of violence or intimidation against a person on board an aircraft in flight;
- (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;
- (c) destroys or damages air navigation facilities or services or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight;
- (d) communicates information which he or she knows to be false, thereby endangering the safety of an aircraft in flight.

*Article 20.*

If, as a result of the acts envisaged in articles 17, 18 and 19, one or more persons are seriously wounded or killed, the penalty shall be imprisonment of fifteen to thirty years, life imprisonment or death.

*Chapter VI*

*Other Acts against Air and Maritime Safety*

*Article 21.*

Any person who performs the acts listed below shall be subject to imprisonment of ten to thirty years, life imprisonment or death:

1. Uses a vessel or aircraft, with or without artillery, to perform an act of violence or threat thereof or any other type of intimidation or hostility against another vessel or aircraft with the intent to:

- (a) seize the vessel or aircraft, or the assets on board;
- (b) damage or destroy the vessel or aircraft, divert it from its route or prevent its movement or normal activities;
- (c) take hostages, injure or kill crew or passengers.

2. Uses a vessel or aircraft to attack, in any way, a target on land, in the air or at sea.
3. Places or causes to be placed on a vessel or aircraft, by any means whatsoever, a device or substance which is likely to destroy that vessel or aircraft, or cause damage to that vessel or aircraft which is likely to render it useless or which, by its very nature, is likely to endanger the safety of that vessel or aircraft.
4. Without being authorized to do so or in violation of the provisions in force in that respect, serves as crew or travels on vessels or aircraft within the territorial sea or airspace of Cuba.
5. Bearing arms, enters into the territorial sea or airspace of Cuba on an unarmed vessel or aircraft, with the intention of performing any of the acts described in the preceding paragraphs.

*Article 22.*

1. The same penalty shall be applied to any person who voluntarily hands over a vessel or aircraft with the intent to perform the acts described in the preceding article, or with the knowledge that the vessel or aircraft will be used for such purposes.
2. Any person who serves as crew on a vessel or aircraft for the purpose of performing any of the acts mentioned in this chapter shall be prosecuted for any offence that may be committed with that vessel or aircraft.

*Chapter VII*

*Acts against the Safety of Fixed Platforms Located on the Continental Shelf*

*Article 23.*

1. Any person who performs one of the following acts shall be subject to imprisonment of ten to thirty years:
  - (a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;
  - (b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;
  - (c) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or endanger its safety.

2. If, as a result of the acts mentioned above, a fixed platform is destroyed or substantially and considerably damaged or if any person is seriously injured or killed, the penalty shall be fifteen to thirty years imprisonment, life imprisonment or death.

## *Chapter VIII*

### *Acts Performed in connection with the Use of Information Technology*

#### *Article 24.*

Any person who performs the following acts in order to facilitate any of the acts envisaged in this Law shall be subject to five to twenty years imprisonment:

(a) uses computer equipment, means, programmes, networks or any other computer application to intercept, interfere with, use, alter, damage, render useless or destroy data, information, electronic documents, software support systems, information, communication or telematic programmes or systems of public, social, administrative, emergency, national security or any other type of services of national or international entities or entities of another country;

(b) uses or allows the use of electronic mail, other Internet services or protocols or any telecommunications terminal equipment;

(c) creates, distributes, trades in or has in his or her power programmes capable of producing the effects referred to in subparagraph (a).

## *Chapter IX*

### *Financing of Terrorism*

#### *Article 25.*

1. Any person who by any means, directly or indirectly, collects, transports, provides or has in his power financial or material funds or resources with the intention that they should be used or in the knowledge that they are to be used in order to carry out any of the offences envisaged in this Law, shall be subject to imprisonment of ten to thirty years.

2. The same penalty shall apply to any person who, directly or indirectly, makes funds, financial or material resources or financial or related services of any other kind available to any person or entity who uses them to carry out any of the offences envisaged in this Law.

## *Chapter X*

### *Other Acts of Terrorism*

#### *Article 26.*

Any person who carries out any other act that is not punished more severely by law but which, because of the manner, means or place or time in which it is carried out, leads to accomplishing the ends referred to in article 1 shall be subject to imprisonment of four to ten years.

#### *Article 27.*

Any person who has knowledge that a person has participated in the commission of an offence or that the person is accused of such an offence, and without being an accomplice himself or herself, conceals or enables the person to be concealed, to flee or to alter or eliminate evidence or proof that might be damaging to the person or in any other way helps the person evade investigation and avoid criminal prosecution, shall be subject to the same punishment as that established for the offence that was covered up, reduced by one third with respect to the minimum and maximum penalties.

#### *Article 28.*

Any person who has knowledge of the preparation or execution of any offence envisaged in this Law who does not report it, without prejudice to having done everything in his or her power to prevent it by all possible means shall be subject to imprisonment of six months to three years.

### **SPECIAL PROVISION**

**SINGLE ARTICLE.** The Government of the Republic is hereby instructed to enter into agreements and understandings with those States that are willing to promote international cooperation on matters relating to the exchange of information, judicial and police assistance, investigation, gathering of evidence and possible extradition of alleged offenders, for the purpose of preventing, suppressing and eradicating terrorism.

### **FINAL PROVISIONS**

**FIRST.** Upon this Law's entry into force, the Council of Government of the Supreme People's Court shall determine which chambers of the people's provincial courts shall be competent to take cognizance of the offences envisaged in this Law. Where military tribunals are responsible for a case, the rules of competence established in the Law on Military Penal Procedures shall apply.

SECOND. Articles 106 through 109, 1997, 118, 122 and 123 of the Penal Code currently in force are hereby repealed, as are any other provisions that are in contradiction to the provisions of this Law.

THIRD. This Law shall enter into force on the date of its publication in the *Gaceta Oficial de la República*.

DONE at the meeting hall of the National Assembly of People's Power, Palacio de las Convenciones, in the city of Havana, on the twentieth day of December two thousand one.

## XXVI. CYPRUS<sup>62</sup>

### 1. SUMMARY OF LEGISLATION OF CYPRUS RELATED TO TERRORISM

Many provisions of the criminal law in Cyprus are implemented in order to combat terrorist acts.

More specifically, Part II of the Criminal Code deals with the offences against Public Order and refers to a number of serious crimes which are related to terrorism, such as preparation of war or warlike conduct (S.42), use of armed force against the government (S. 41) and carrying arms for terrorist acts (S.80).

Section 63 of the Criminal Code defines an unlawful organization, as any body or person incorporated or not, which by its constitution or propaganda or otherwise advocates, incites or encourages, inter alia, any of the following unlawful acts, namely: the overthrow of the constitution of the Republic of Cyprus by revolution or sabotage, the overthrow by force or violence of the government and the destruction of property of the State. Being a member of an unlawful organization is punishable with 3 years imprisonment (S. 56).

Concerning fundraising, section 58 states that any person who gives or pays contributions, subscriptions or donations, for or on account of, any unlawful association is guilty of a misdemeanour and is liable to one year imprisonment. In addition, section 60 makes provisions for the seizure and forfeiture of the property of an unlawful organization.

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<sup>62</sup> Transmitted to the Secretariat by that Government on 21 December 2001(S/2001/1243, enclosure), on 17 June 2002 (S/2002/689, enclosure) and on 14 February 2003 (S/2003/263, enclosure). Information was also provided in respect of the Prevention and Suppression of Money Laundering Activities Law of 1996, (No. 61(I)/96) and the Refugee and Asylum Seekers Law.