

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 Articles 106 through 109, 1997, 118, 122 and 123 of the Penal Code currently in force are hereby repealed, as are any other provisions that are in contradiction to the provisions of this Law.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. CYPRUS⁶²

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.

⁶² 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.

Concerning the “planning and facilitating of terrorist acts against other States or their citizens, even if no related terrorist act has actually been committed or attempted”, the provisions of certain sections of the Criminal Code are applied, such as the section on “conspiracy” which states as follows:

“372. Any person who conspires with another to commit a misdemeanour, or to do any act in any part of the would which if done in the Republic would be a misdemeanour, and which is an offence under the laws in force in the place where it is purposed to be done, is guilty of a misdemeanour.”

Regarding recruitment of terrorists or the supply of weapons to terrorists, provisions exist in the Criminal Code that are applicable in such cases (e.g. section 55 providing for unlawful training, section 56 making the membership of an unlawful association illegal, section 53 concerning unlawful oaths to commit offences). Moreover, under the Firearms Law (38/74 and 27/78) and the Explosive Substances Law (Cap. 54), the possession and carrying of firearms and explosive substances is prohibited and entails severe penalties.

In addition, the provisions in the domestic Criminal Code which could be applied to acts of terrorism, with the penalties provided for each one, are the following:

- S.42 Inciting to mutiny (Life imprisonment)
- S.43 Aiding soldiers or policemen in acts of mutiny (Misdemeanour)
- S.44 Inducing soldiers or policemen to desert (Imprisonment for six months)
- S.45 Aiding prisoners of war to escape (Life imprisonment, Misdemeanour)
- S.47 Seditious conspiracy and publications with seditious intention (Five years imprisonment)
- S.50 Publication of false news (Two years imprisonment or fine of five hundred pounds or both)
- S.50A Publication of news, etc., relating to defence works, etc. (Six years imprisonment)
- S.50C Espionage (Ten years imprisonment)
- S.51 Encouraging violence and promoting ill will (Twelve months imprisonment)

- S.51A Procurement or incitement to acts of violence, etc. (Twelve months imprisonment or fine of one thousand pounds or both, in case of a body corporate fine of three thousand pounds)
- S.52 Unlawful oaths to commit capital offences (Life imprisonment)
- S.53 Other unlawful oaths to commit offences (Seven years imprisonment)
- S.55 Unlawful training (Seven years imprisonment)
- S.56 Membership of an unlawful association (Three years or seven years imprisonment)
- S.57 Advocating and encouraging unlawful association (Five years imprisonment)
- S.58 Giving or soliciting contributions for an unlawful association. (Five years imprisonment)
- S.59 Possession of documents having a seditious intention and (Three years imprisonment and publication, etc. propaganda of unlawful association. (Confiscation of documents)
- S.80 Carrying arms to terrorise (Two years imprisonment, and confiscation of arms or weapons)
- S.91 Threatening violence (Three years imprisonment)
- S.92 Possessing firearms with intent to injure (Five years imprisonment)
- S.108A Use of uniform by unauthorized persons (Twelve months imprisonment or a fine of three hundred pounds or both)
- S.109 Impersonating public officers (Three years imprisonment)

The Courts of Cyprus have jurisdiction over such offences and foreigners, "if the offence is one to which, under any international treaty or convention binding on the Republic, the Law of the Republic is applicable" (Section 5 of the Criminal Code, Cap. 154).

Territorial application

The extent of the criminal jurisdiction of the Court of the Republic is regulated by section 5 of the Criminal Code Cap. 154, according to which offences under the Code committed outside Cyprus are triable in Cyprus:

(a) if committed by a citizen of the Republic the Criminal Code provided that:

(i) the offence is punishable by imprisonment exceeding two years and

(ii) the act committed constitutes an offence under the Law of the country where committed.

(b) if committed by any person and the offence is:

(i) treason or is against the security and the constitutional order, or

(ii) piracy, or

(iii) connected with the monetary currency of the Republic, or

(iv) related to the illegal trading of dangerous drugs, or

(v) is one of the offences for which the Law of Cyprus is applicable under the provision of an International Treaty or Convention binding on the Republic.

In view of the above, a person who is not a citizen of the Republic but is habitually resident in Cyprus would only be liable for trial in Cyprus if the requirements of paragraph (b) above are satisfied.

2. CRIMINAL CODE (CAP. 154)

PART II - OFFENCES AGAINST PUBLIC ORDER

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Use of armed force against the Government, etc.

4I. Whoever prepares or endeavours, by armed force or the show of armed force, to procure an alteration in the Government or laws, or to resist the execution of the laws, or to compel any member of the Council of Ministers, the Executive or Legislative organs, or any person in command or any military or naval forces or of any peace officers, to do, or abstain from doing, any act of a public or official character is liable to life imprisonment.

*Inciting to mutiny*⁶³

42. Any person who maliciously and advisedly endeavours to effect any of the following purposes, that is to say –

(a) to seduce any person serving in the army (as defined in subsection (2) of section 44A) or any member of the police force from his duty and allegiance to the Laws of the Republic; or

(b) to incite any such persons to commit an act of mutiny or any traitorous or mutinous act; or

(c) to incite any such persons to make or endeavour to make a mutinous assembly,

is guilty of a felony, and is liable to life imprisonment.

Aiding soldiers or policemen in acts of mutiny

43. Any person who –

(a) aids, abets, or is accessory to any act of mutiny by; or

(b) incites to sedition or to disobedience to any lawful order given by a superior officer or to any act of insubordination,

any non-commissioned officer or private of the army (as defined in subsection (2) of section 44A) or any member of the police force, is guilty of a misdemeanour.⁶⁴

*Inducing soldiers or policemen to desert*⁶⁵

44. Any person who, by any means whatever, directly or indirectly –

(a) procures or persuades or attempt to procure or persuade to desert; or

(b) aids, abets, or is accessory to the desertion of; or

(c) having reason to believe he is a deserter, harbours or aids in concealing,

any non-commissioned officer or private of the army (as defined in subsection (2) of section 44A), or any member of the police force, is guilty of a misdemeanour, and is liable to six months imprisonment.

⁶³ 3 of 69/64.

⁶⁴ Ibid.

⁶⁵ Ibid.

*Disturbing order and discipline in the army*⁶⁶

- 44A. (1) Any person who maliciously does any act calculated to disturb order and discipline in the army is guilty of a misdemeanour and is liable to imprisonment not exceeding two years or to a fine not exceeding two hundred pounds or to both such imprisonment and fine.
- (2) For the purposes of this section “army” includes the army of the Republic, the National Guard and any other military force established by law.
- (3) No prosecution under this section shall be commenced except with the approval of the Attorney General of the Republic.

Aiding prisoners of war to escape

45. Any person who –
- (a) knowing and advisedly aids an alien enemy of the Republic, being a prisoner of war in the Republic, whether such prisoner is confined in a prison or elsewhere or is suffered to be at large on his parole, to escape from his prison or place of confinement or if he is at large on his parole, to escape from the Republic, is guilty of a felony, and is liable to life imprisonment,
- (b) negligently and unlawfully permits the escape of any such person as is mentioned in the proceeding paragraph is guilty of a misdemeanour.

Seditious conspiracy and publications with seditious intention

47. Any person who –
- (a) conspires with any other person or persons to do any act in furtherance of any seditious intention common to both or all of them; or
- (b) publishes any words or document or makes any visible representation whatsoever with a seditious intention,
- is guilty of a felony and is liable to five years imprisonment.

*Publication of false news, etc.*⁶⁷

50. (1) Any person who in any manner publishes in any form false news or information which may impair public order or the confidence of the public in the state or its organs or to cause fear or concern to the public

⁶⁶ 2(a) of 69/64, 3(l) of 166/87.

⁶⁷ 3(l) of 166/87.

or to disturb in any way public peace and order shall be guilty of an offence and shall be punishable with imprisonment for a term not exceeding two years or with a fine not exceeding five hundred pounds or with both such imprisonment and fine:

Provided that it shall be a good defence for the accused to prove to the satisfaction of the Court that the publication was made in good faith and on the basis of facts justifying such publication.

For the purposes of this sub-section, the provisions of paragraphs (a) and (b) of section 201 in relation to good faith shall apply.

(2) No prosecution under this section shall be instituted without the written consent of the Attorney-General of the Republic.

*Publication of news, etc., relating to defence works, etc.*⁶⁸

50A. Any person who, without lawful authority, publishes or communicates to any unauthorized person any sketch, plan, model, note, document, article, information or news relating to any fortifications, means or works of defence, camps, military stores or other places occupied or used by or for the needs of the armed forces of the Republic or relating to the stationing, concentration, movement, deployment or activities thereof is guilty of an offence and is liable to six years imprisonment.⁶⁹

*Espionage*⁷⁰

50C. (1) Any person who for any purpose prejudicial to the safety or the interests of the Republic procures himself with, obtains, collects, records, publishes, transmits or communicates to any other person any secret official code or secret password or any plan, form, note, article or other document or information which is intended or may or is calculated to be directly or indirectly useful to any other state shall be guilty of a felony and shall be punishable with imprisonment for a term of ten years.

(2) In any criminal prosecution under this section there shall be presumed, until the contrary is proved, that the act or omission constituting the offence has been committed for a purpose prejudicial to the safety or the interests of the Republic.

(a) if from the circumstances of the case or the conduct or known character of the accused, as such character has been proved, it

⁶⁸ 2 of 41/64.

⁶⁹ 2 of 13/79.

⁷⁰ 2 of 58/67.

transpires that the purpose was prejudicial to the interest or the security of the Republic;

(b) if any secret official code or secret password of any plan, form, note, article or other document or information has been obtained, drawn up or recorded by any person not authorized in this respect or not in accordance with the terms and the extent of his authority, or published, transmitted or communicated to any person not authorized in this respect or not in the manner authorized.

Encouraging violence and promoting ill will

51. (1) Any person who prints, publishes, or to any assembly makes any statement calculated or likely to
- (i) encourage recourse to violence on the part of any of the inhabitants of the Republic; or
 - (ii) promote feelings of ill will between different classes or communities or persons in the Republic, is guilty of misdemeanour and is liable to twelve months imprisonment:

Provided that no person shall be guilty of an offence under the provisions of this section if such statement was printed, published or made solely for any one or more of the following purposes, the proof whereof shall lie upon him, that is to say:

- (a) to endeavour in good faith to show that the Government of the Republic has been misled or mistaken in any of its measures; or
- (b) to point out in good faith errors or defects in the Government, or the policies thereof, or constitution of the Republic as by law established, or any legislation or in the administration of justice, with a view to the remedying of such errors or defects; or
- (c) to persuade in good faith any inhabitants of the Republic to attempt to procure by lawful means the alteration of any matter in the Republic as by law established other than that referred to in paragraph (b) of section 48; or
- (d) to point out in good faith with a view to their removal any matters which are producing or have a tendency to produce discontent amongst any of the inhabitants of the Republic or feelings of ill will and enmity between different communities or classes of persons in the Republic.

- (2) For the purposes of this section “an assembly” means a gathering of five or more persons.

*Procurement or incitement of acts of violence, etc.*⁷¹

51A. (1) Any person who publicly in any manner and in any way procures the inhabitants to acts of violence against each other or to mutual discord or foments the creation of a spirit of intolerance, is guilty of a misdemeanour and is liable to twelve months imprisonment or to a fine of one thousand pounds or to both such penalties, and if a body corporate to a fine of three thousands pounds.

(2) No prosecution under this section shall be instituted without the written consent of the Attorney General of the Republic.

Unlawful oaths to commit capital offences

52. Any person who –

(a) administers, or is present at and consents to the administering of, any oath, or engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence punishable with death; or

(b) takes any such oath or engagement, not being compelled to do so,

is guilty of a felony and is liable to life imprisonment.

Other unlawful oaths to commit offences

53. Any person who –

(a) administers or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the way following, that is to say

(i) to engage in any mutinous or seditious enterprise;

(ii) to commit any offence not punishable with death;

(iii) to disturb the public peace;

(v)⁷² to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose;

(iv) not to inform or give evidence against any associate, confederate or other person;

⁷¹ 2 of 59/74.

⁷² Numbering conforms to original Government submission to the Counter-Terrorism Committee.

(vii) not to reveal or discover any, unlawful association, or confederacy or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person, or the import of any such oath or engagement; or

(b) takes any such oath or engagement, not being compelled to do so, is guilty of a felony, and is liable to seven years imprisonment.

Unlawful drilling

55. (1) Any person who –

(a) without the permission of the Council of Ministers trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions; or

(b) is present at any meeting or assembly of persons, held without the permission of the Council of Ministers for the purpose of training or drilling any other persons to the use of arms or the practice of military exercise, movements, or evolutions,

is guilty of a felony, and is liable to seven years imprisonment.

(2) Any person who at any meeting or assembly held without the permission of the Council of Ministers is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled is guilty of a felony and is liable to five years imprisonment.

OFFENCES AGAINST THE CONSTITUTION AND EXISTING SOCIAL ORDER

Unlawful association

56. (1) Any person who is a member of an unlawful association is guilty of felony and is liable to three years imprisonment.

(2) Any person who occupies or acts in any office or position in or of an unlawful association or who acts as a representative of an unlawful association or who acts as a teacher in any institution or school conducted by or under the authority or apparent authority of an unlawful association is guilty of a felony and is liable to seven years imprisonment.

(3) Any person who attends a meeting of an unlawful association or of members of an unlawful association or of persons who advocate or encourage the doing of any of the acts declared to be unlawful in section 63 of this Code or who has in his possession or custody any badge, ticket book of membership, or any letter or document whatsoever, whenever issued, which appears to imply membership of, or any authority from or any connection with an unlawful association, shall be presumed, unless or until the contrary is proved, to be a member of an unlawful association.

Advocating and encouraging unlawful association

57. Any person who by speech or writing or in any other way advocates or encourages the doing of any of the acts declared to be unlawful in section 63 of this Code is guilty of a felony and is liable to five years imprisonment.

Giving of soliciting contributions for an unlawful association

58. Any person who gives or pays contributions, subscriptions or donations and any person who solicits contributions or subscriptions or donations for or on account of any unlawful association is guilty of a misdemeanour and is liable to one-year imprisonment.

Possession of documents having a seditious and publication, etc., of propaganda of unlawful association

59. Any person who –

(a) transmits through the post or who, without lawful authority or excuse, the proof of which lies upon him, has in his possession any book, periodical, pamphlet, poster, proclamation, newspaper, letter or any other document or writing whatsoever having a seditious intention as defined in section 48 of this Code; or

(b) prints, publishes, sells, or exposes for sale, or transmits through the post or who, without lawful authority or excuse, the proof of which lies upon him, has in his possession any book, periodical, pamphlet, poster, proclamation, newspaper, letter or any other document or writing whatsoever which advocates or encourages any of the acts declared to be unlawful in section 63 of this Code or which is issued or appears to be issued by or on behalf of, or in the interests of, an unlawful association,

is guilty of a felony and is liable to imprisonment for three years, and any book, periodical, pamphlet, poster, proclamation, newspaper, letter or any other document or writing in respect of which such person shall have been convicted shall be forfeited.

*Persons taking part in criminal organization*⁷³

63A. Any person who takes part in a criminal organization is guilty of an offence and in the case of being convicted, liable to three years imprisonment.

*Persons taking part and accepting commission of crimes*⁷⁴

63B. (1) Any person who knowing of the illegal purposes and activities of any criminal organizations –

(a) takes part in with any action any illegal act of a criminal organization; or

(b) takes part in with any action, any illegal act of a criminal organization, which he ought to have known that logically is connected in any way with the commission of any offence,

is guilty of a felony, punishable with imprisonment not exceeding ten years or with a fine not exceeding fifty thousand pounds or with both such punishments.

(2) The Court may try offences laid down in subsection (1) of this section and in cases where the criminal organization exists or operates partly or wholly in the Republic.

(3) For the purposes of this Law, the term “criminal organization” means a group structured of three or more persons which is incorporated and function with the intention to commit offences punishable with maximum imprisonment not exceeding three years.

Carrying arms to terrorise

80. Any person who carries in public without lawful occasion any offensive arm or weapon in such a manner as to cause terror to any person is guilty of a misdemeanour, and is liable to two years imprisonment and his arms or weapons shall be forfeited.

Threatening violence

91. Any person who –

(a) with intent to intimidate or annoy any person, threatens to break or injures a dwelling house; or

⁷³ 2 of 12(I) 2002.

⁷⁴ Ibid.

(b) with intent to alarm any person in a dwelling house, discharges loaded firearms or commits any other breach of the peace; or

(c) with intent to cause any person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, threatens another with injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested.

is guilty of a misdemeanour, and is liable to three years.

Possessing firearms with intent to injure

92. Any person who has in his possession or under his custody any firearm or ammunition with intent by means thereof to endanger life or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause serious injury to property, is, whether any injury to person or property has been caused or not, guilty of a felony and is liable to five years imprisonment.

In this section the expression “firearm” means any firearm from which any shot, bullet, or other missile can be discharged, or any part thereof, and the expression “ammunition” means ammunition for any such firearms, and includes grenades, bombs, and other similar missiles, whether such missiles are capable of use with a firearm or not, and ingredients and components thereof.

PART III

OFFENCES AGAINST THE ADMINISTRATION OF LAWFUL AUTHORITY

False assumption of authority

108. Any person who –

(a) not being a judicial officer, assumes to act as a judicial officer; or

(b) without authority assumes to act as a person having authority by law to administer an oath or take a solemn declaration or affirmation or affidavit or to do any other act of a public nature which can only be done by persons authorised by law to do so;

(c) represents himself to be a person authorised by law to sign a document testifying to the contents of any register or record kept by lawful authority or testifying to any fact or event, and signs such document, as being so authorised, when he is not, and knows that he is not, in fact, so authorised,

is guilty of a misdemeanour.

*Assumption of the rights to wear uniform, etc.*⁷⁵

108A. Any person who publicly and without authority wears the uniform or other distinctive mark of a member of the army or the National Guard or the police, which he is not authorised to wear or use is guilty of a misdemeanour and is liable to twelve months imprisonment's or to a fine of three hundred pounds or to both such penalties.

Personating public officers

109. Any person who –

(a) personates any person employed in the public service on an occasion when the latter is required to do any act or attend in any place by virtue of his employment; or

(b) falsely represents himself to be a person employed in the public service, and assumes to do any act or to attend in any place for the purpose of doing any act by virtue of such employment,

is guilty of a misdemeanour, and is liable to three years imprisonment.

XXVII. CZECH REPUBLIC⁷⁶

SUMMARY OF LEGISLATION OF THE CZECH REPUBLIC RELATED TO TERRORISM

According to the Criminal Code of the Czech Republic, provisions relating to the following crimes can be utilised in the fight against terrorism:

Criminal acts against the foundations of the Republic

- High treason - Section 91 (can only be committed by a citizen of the Czech Republic)
- Subversion of the Republic - Section 92

⁷⁵ 3(l) of 59/74, 3(l) of 166/87.

⁷⁶ Transmitted to the Secretariat by that Government on 27 December 2001 (S/2001/1302, enclosure), on 23 July 2002 (S/2002/872, enclosure) and on 17 February 2003 (S/2003/261, enclosure) Information was also provided in respect of the following: Act No. 48/2000 Col., Decree No. 164/2000 Col., Measures in Relation to the Afghan Taliban Movement; Act No. 49/1997 Col. Decree No. 327/2001 Col., Further Measures in Relation to the Afghan Taliban Movement; Civil Aviation, Act No. 325/1999 Col.; Asylum, and Act No 61/1996 Col., Various Measures against Money Laundering.