

CIV. SAO TOME AND PRINCIPE¹⁰⁶

SUMMARY OF LEGISLATION OF SAO TOME AND PRINCIPE RELATED TO TERRORISM

(a) Criminal Code

There is no specific criminal provision against financing of terrorism or against recruitment of terrorism. However, article 263 of the Criminal Code covers “criminal association”. It also punishes as accomplices those who supply arms, munitions or any other means. It thus appears to be broad enough to cover also the activity of providing financial assistance to a terrorist organization as well as recruitment.

As to the supply of arms to terrorists, article 253 of the Criminal Code punishes the manufacturing, import and trade in arms and explosives to be used against people or buildings. The same article punishes those who trade or provide arms without the necessary administrative authorization.

CV. SAUDI ARABIA¹⁰⁷

SUMMARY OF LEGISLATION OF SAUDI ARABIA RELATED TO TERRORISM

(a) Islamic Shariah

It is a basic principle of the Islamic Shariah that whatever leads to the forbidden is itself forbidden. Terrorist acts are forbidden and are among the most serious crimes in the Shariah texts. Therefore, in accordance with the norms of the Islamic Shariah, anything that is conducive to or that facilitates the commission of such acts is also forbidden, and this includes the provision or collection of funds to be used for terrorist acts. Indeed, the penalty for those who contribute to a terrorist act by providing or collecting the necessary funds can be the same as that applied to the perpetrator of the terrorist act itself.

¹⁰⁶ Transmitted to the Secretariat by that Government on 13 May 2003 (S/2003/568, appendix). Information was also provided indicating that the Government of Sao Tome and Principe was in the process of drafting special legislation against terrorism, which will criminalise the activities proscribed in the twelve multilateral conventions on terrorism.

¹⁰⁷ Transmitted to the Secretariat by that Government on 26 December 2001 (S/2001/1294, enclosure), on 10 July 2002 (S/2002/869, enclosure) and on 23 May 2003 (S/2003/583, enclosure). Information was also provided in respect of the Basic Law of Government (Constitution); the Penal Code; the Fund-raising for Charitable Purposes Regulations, 1976; the Arms and Ammunition Statute, 1981; the Residence Statute; and the Travel Documents Statute.

In 1999, the Kingdom's Council of Senior Religious Scholars issued a statement on terrorism in which it declared that bloodshed, the violation of honour, the theft of private and public property, the bombing of dwellings and vehicles and the destruction of installations are, by the consensus of Muslims, legally forbidden because they violate the sanctity of the innocent, destroy property, security and stability and take the lives of peaceable human beings in their homes and at their work. It stated that the occurrence of such acts in certain countries is unmitigated sedition and criminality that is rejected by the Shariah and by nature itself.

In the Islamic Shariah, which the Kingdom applies and from which it derives its statutes, crimes of terrorism are included among the crimes of *hirabah*. The severest of penalties are applied to these crimes in the Islamic Shariah, as set forth in the Holy Koran [Koran 5:33]. The crimes of *hirabah* include the killing and terrorization of innocent people, spreading evil on earth (*al-ifsad fi al-ard*), theft, looting and highway robbery. The financing of terrorism falls into the category of "spreading evil on earth" (*al-ifsad fi al-ard*). This may incur the non-discretionary *hadd* penalty for *hirabah* (brigandage), which can sometimes mean the application of the death penalty.

(b) Other legislation

In accordance with the statutes in force in the Kingdom, the courts have jurisdiction to decide all cases relating to terrorism and, in accordance with its Statute, the Commission for Investigation and Public Prosecution investigates such crimes and prosecutes them in the courts.

Should a citizen of Saudi Arabia commit terrorist acts outside its territory and should he currently be present outside the country, the Kingdom would seek his extradition for trial in accordance with the relevant bilateral, regional or international agreements. Should such a person be present in Saudi Arabia, he would be brought to trial when it is determined that he had committed acts of terrorism under the statute in force in the country.

In the case of a resident who commits acts of terrorism outside the country, the Kingdom would not seek to bring him to trial since he is not a citizen of the country. In the event that a resident commits a crime outside the country, returns to the country and is sought by the other State, Saudi Arabia would consider extraditing him to the requesting State in accordance with existing agreements between it and that State.

The Kingdom has not refused to extradite persons accused of committing terrorist acts, particularly since it is party to the Arab Convention for the Suppression of Terrorism, the Convention of the Organization of the Islamic Conference on Combating International Terrorism and the Arab Convention on Judicial Cooperation. It is also party to a number of bilateral agreements. However, it might refuse extradition if the case is under investigation, a judicial sentence has been rendered in respect of it or there is a conflict with the principle

of sovereignty. Saudi Arabia might also refuse to extradite if a final judgement has been handed down that is enforceable or is in conflict with the principle of sovereignty.

The provisions of paragraph (a) of article 2 of the Arab Convention for the Suppression of Terrorism concerning armed struggle against foreign occupation and aggression for liberation and self-determination are in accord with principles of international law, as reaffirmed by the United Nations, on the occasion of its fiftieth anniversary, in General Assembly resolution 50/6 of 24 October 1995, which contains a reference to the right of peoples under colonial and other forms of alien domination or foreign occupation to self-determination, independence and the establishment of legitimacy. Thus no exception exists, inasmuch as what is involved is the right of peoples to engage in armed struggle for self-determination.

CVI. SENEGAL¹⁰⁸

ELEMENTS DU DISPOSITIF LEGISLATIF ET REGLEMENTAIRE DU SENEGAL

Les actes de terrorisme s'analysent en infractions définies dans le Code pénal et certaines lois éparses non consignées dans ledit eode.

Ces infractions peuvent constituer des atteintes à la vie (meurtres, assassinats, empoisonnement ...), à l'intégrité de la personne (enlèvement, séquestration, destruction, détournement ...) ainsi que l'association de malfaiteurs (vol, extorsions de fonds ...).

La fabrication, la vente et le transport de machines, engins ou substances explosives ainsi que la détention et le port d'armes à feu prohibées constituent également des infractions au regard de la législation sénégalaise.

S'agissant de crimes, la tentative est toujours punissable. Pour les délits, elle l'est, si la loi le prévoit.

Il reste au Sénégal à sa doter d'une législation spécifique au terrorisme, en aggravant les infractions ci-dessus lorsqu'elles sont commises dans une entreprise terroriste.

Recrutement de membres de groupes terroristes

En dépit de la ferme volonté des autorités sénégalaises de combattre le terrorisme sous toutes ses formes, le Sénégal ne dispose pas, à ce jour, d'une législation spécifique pour réprimer le recrutement de membres de groupes terroristes. Cependant, certaines dispositions contenues dans le Code pénal, bien que réprimant des actes criminels de droit commun, peuvent servir de base légale à

¹⁰⁸ Submitted by that Government on 27 December 2001 (S/2002/51, enclosure), on 18 October 2002 (S/2002/1212, annex) and on 11 November 2003 (S/2003/1104, enclosure).