

CXVII. TAJIKISTAN¹⁹⁵

SUMMARY OF LEGISLATION OF TAJIKISTAN RELATED TO TERRORISM

(a) Decree No. 707 of 1997

In order to ensure the protection of the constitutional system of the Republic of Tajikistan and of human and civil rights and freedoms, taking into account the upsurge in terrorism and with a view to its suppression, the programme for intensifying efforts to combat terrorism for the period 1998-2000 was elaborated and approved by Decree No. 707 of the President of the Republic of 21 April 1997, ensuring the coordination of activities for that purpose by law enforcement and other State agencies. In particular, in the section concerning the suppression of the financing of terrorism, paragraph 3, subparagraph 3, of the Decree states that "Measures shall be taken to identify and suppress the channels of international communication of terrorist groups operating in the Republic of Tajikistan, their financing and deliveries of weapons from abroad".

(b) Act "On combating terrorism" 1999

The Act "On combating terrorism" was adopted in November 1999, in accordance with subparagraph 3 of Decree No. 707. Under article 10 of the Act, knowingly financing or otherwise assisting a terrorist organization or terrorist group is regarded as terrorist activity. Persons who are guilty, directly or indirectly, of providing or collecting funds for the commission of terrorist acts are criminally liable for offences committed by terrorists as accomplices to those offences, as provided in articles 35 to 37 of the Criminal Code of the Republic of Tajikistan.

In accordance with the same article 10, recruitment to terrorist groups, the supply of weapons to terrorists, and the training and use of terrorists are deemed to be terrorist activities and are regarded as complicity in the terrorist offences committed. Persons guilty of recruiting terrorists may be prosecuted under articles 179, "Terrorism", and 187, "Organization of a criminal association", of the Criminal Code.

In accordance with article 26 of the Act "On combating terrorism", persons who engage in terrorist activity, provide assistance to terrorists or terrorist organizations, or champion their activities are held liable under article 179 of the Criminal Code.

¹⁹⁵ Transmitted to the Secretariat by that Government on 28 March 2002 (S/2002/358, enclosure) and on 20 January 2003 (S/2003/147, enclosure). Information was also provided in respect of the Act "On weapons", the Act "On the National Bank of Tajikistan", and the Act "On refugees".

(c) Criminal Code

Persons who supply weapons to terrorists are liable under article 195, “Illegal acquisition, transfer, sale, possession, transport or bearing of weapons, ammunition, explosives and explosive devices”, of the Criminal Code.

In accordance with article 36, paragraph 1, of the Criminal Code, a person who organizes, instigates or abets an offence is deemed an accomplice to that offence, alongside the perpetrator. Pursuant to article 37, paragraph 1, of the Criminal Code, the liability of the accomplices to an offence is determined by the nature and degree of the actual participation of each of them in its commission, and they are liable for committing specific offences under the same article of the Special Section of the Criminal Code as perpetrators of terrorist acts.

The very fact of collecting funds for the commission of such offences is thus sufficient grounds for the criminal prosecution of the guilty party.

In accordance with article 185 of the Criminal Code, the establishment of an illegal armed unit (association, detachment, militia or other group) and leadership of or participation in such a unit are punishable by imprisonment for five to eight years.

Territorial application

The basic legal measure to prevent the use of the territory of Tajikistan for the perpetration of terrorist acts in other States is the Penal Code. The provisions of article 14, defining the extent of operation of the law, establish responsibility for a crime which:

- as begun, continued or completed in the territory of the Republic of Tajikistan (part two, paragraph (a));
- was committed in the territory of the Republic of Tajikistan, but the criminal outcome took place outside Tajikistan (part two, paragraph (b));
- was committed in complicity with persons engaged in criminal activity in the territory of another State (part two, paragraph (d)).

Part three, article 14, of the Penal Code provides that the criminal legislation of the Republic of Tajikistan has effect regardless of the laws of the place where a crime was committed in the case of acts endangering the public which are perpetrated on board an aircraft or a ship legally travelling under the flag or distinguishing signs of the Republic of Tajikistan.

At the same time, part two, article 16, of the Penal Code provides that foreign nationals and stateless persons who have committed a crime outside the Republic of Tajikistan and are present in its territory may be extradited to a foreign State for the purposes of criminal prosecution or to serve a sentence in accordance

with an inter-State treaty. This situation makes it impossible for persons who have committed a crime in the territory of another State to go into hiding in the territory of the Republic of Tajikistan.

Pursuant to article 15, of the Penal Code, nationals of the Republic of Tajikistan, and also stateless persons who reside permanently therein, are liable under the Code for crimes committed in the territory of another State if they have not been sentenced in another State for that crime.

Pursuant to part two, article 15, of the Penal Code, foreign nationals and stateless persons who do not reside permanently in the Republic of Tajikistan are liable under the Code for crimes committed outside Tajikistan in the following cases:

- (a) If they committed a crime envisaged under the norms of international law recognized by the Republic of Tajikistan or under inter-State treaties and agreements;
- (b) If they committed a particularly grave or a grave crime (the commission of terrorist acts falls within the category of particularly grave crimes, under article 18 of the Penal Code) against nationals of Tajikistan or the interests of the Republic of Tajikistan.

Pursuant to part three of article 15, these rules apply if foreign nationals and stateless persons who do not reside permanently in the Republic of Tajikistan have not been sentenced in another State.

CXVIII. THAILAND¹⁹⁶

SUMMARY OF LEGISLATION OF THAILAND RELATED TO TERRORISM

(a) Penal Code

The amendments to section 135 of the Penal Code entered into force after their publication in the Royal Gazette on 11 August 2003. They became law by Emergency Decree, as stipulated in section 218 of Thailand's Constitution. Section 135/1 provides:

¹⁹⁶ Transmitted to the Secretariat by that Government on 2 January 2002 (S/2002/10, enclosure), on 23 July 2002 (S/2002/882, enclosure), and on 18 September 2003 (S/2003/915, enclosure). Information was also provided in respect of amendments to the Anti-Money Laundering Act B.E.2542 (1999) which entered into force after their publication in the Royal Gazette on 11 August 2003. They became laws by Emergency Decree, as stipulated in Section 218 of Thailand's Constitution.