

Section 16 permits and provides for the forfeiture (upon applying for and obtaining a court order) of terrorist assets.

The sentence prescribed for supply of weaponry or explosives is death on conviction. So is the sentence for recruiting, financing, and harbouring terrorists. Misprision of terrorism carries a life sentence under the Act.

The law also has in the second schedule a list of terrorist organizations, which the Minister for Internal affairs can update from time to time. This list is to be updated to include the lists that have been adopted under the various United Nations Security Council Resolutions.

Moreover, it is an offence under the laws of Uganda to be a member, whether passive or active, of a terrorist organization and conviction for this offence attracts a sentence of ten years imprisonment.

CXXIV. UKRAINE²⁰³

SUMMARY OF LEGISLATION OF UKRAINE RELATED TO TERRORISM

The wilful provision or collection of funds for terrorist formations is criminalized under article 258 of the Criminal Code of Ukraine. According to the fourth part of that article, the creation of a terrorist group or terrorist organization, the leadership of such a group or organization or participation in its activities, or the provision of material, organizational or other support for the creation or

²⁰³ Transmitted to the Secretariat by that Government on 26 December 2001 (S/2001/1330, enclosure) and on 3 September 2002 (S/2002/I030, enclosure). Information was also provided in respect of the Code of Criminal Procedure of Ukraine; the Act "on the procedure for cancelling the liability of taxpayers with respect to budgetary and State funds earmarked for special purposes"; the Act "on revisions to the Act 'on the State Tax Service of Ukraine'"; the Act "on the legal status of aliens"; Act "on citizenship of Ukraine"; the Act "on immigration"; the Ukrainian Act "on organizational and legal principles for combating organized crime"; the Ukrainian Code on Administrative Offences; the Act of Ukraine "on refugees"; the Act "on insurance"; the Act "on the procedure for discharge of taxpayers' obligations towards budgetary and State special-purpose funds"; the Act "on general military service"; the Act "on the Security Service of Ukraine"; the Act "on the intelligence services of Ukraine"; the Act "on operational and search activities"; the Act "on the intelligence bodies of Ukraine"; the Act "on local State administrations"; the Act "on criminal investigation activities"; Act "on the Security Council of Ukraine"; the Act "on nuclear energy use and radiation safety"; the Act "on regulations governing garrison and guard service in the armed forces of Ukraine"; the Act "on the legal regime in an emergency situation"; the Act "on the defence of Ukraine" in the version of 5 October 2000; the Act "on the physical defence of nuclear facilities, nuclear materials, radioactive wastes and other sources of ionizing radiation"; the Merchant Shipping Code; the Act "on the State Tax Service of Ukraine"; the Act on "the Border Troops of Ukraine".

activities of a terrorist group or terrorist organization is punishable by imprisonment for a term of from 8 to 15 years.

The concepts “terrorist group” and “terrorist organization” coincide in their content with the definitions of “criminal group” and “criminal organization” which are given in article 28 of the Criminal Code of Ukraine.

Article 258 also establishes criminal liability for “ ... material, organizational or other assistance for the formation or activities of a terrorist group or organization”. The penalty for the creation of a terrorist group or of a terrorist organization, the leadership of such a group or organization or participation in it, as well as material, organizational or other support for the creation or activity of a terrorist group or a terrorist organization is a term of imprisonment of between 8 and 15 years.

In addition, article 258 establishes criminal liability for the commission of a terrorist act, in other words, the use of weapons, the causing of an explosion, arson or other acts endangering the life or health of people or causing substantive damage to property or other serious consequences, if such actions were committed for the purpose of impairing public safety, intimidating the population, provoking a military conflict or international complications, or for the purpose of influencing the taking of decisions, or of exerting influence over whether action is taken or not taken by State or local self-government bodies, by officials of those bodies, by citizens’ associations, by legal persons, or of drawing the attention of the public to certain political, religious or other views of a guilty party (terrorist), and also of threatening the commission of such acts for the same purpose, for which the penalty is a term of imprisonment of between 5 and 10 years.

The penalty for the same actions committed repeatedly or by prior agreement among a group of persons, or if such actions result in substantial damage to property or in other serious consequences, is a term of imprisonment of between 7 and 12 years.

The penalty for the actions established in parts 1 and 2 of that article, if they result in the loss of human life, is a term of imprisonment of between 10 and 15 years, or life imprisonment.

A person, other than an organizer or leader, shall be exempted from criminal liability for an action provided for under paragraph 4 of that article if such person voluntarily reports such action to a law enforcement body and assists in terminating the existence or activity of a terrorist group or organization or in the exposure of crimes committed in connection with the creation or activity of such a group or organization, if such person’s actions do not include elements of another crime.

The Code also provides for other standards whereby the criminal liability of a person involved in a terrorist act may be established (article 255, “Creation of a criminal organization”; article 256, “Assisting participants in

criminal organizations and disclosure of their criminal activity”; article 260, “Creation of militarized or armed groupings not envisaged by the law”; and article 209, “Legalization (laundering) of financial resources or other property acquired by criminal means”).

The Criminal Code also provides for criminal liability for the establishment of illegal paramilitary formations (formations with an organizational structure of a military type, i.e. single command, subordination and discipline, and in which military, combat or physical training is carried out) or armed formations:

- (i) The establishment of illegal paramilitary formations or participation in their activities is punishable by imprisonment for a period of 2 to 5 years;
- (ii) The establishment of illegal armed formations or participation in their activities is punishable by imprisonment for a period of 3 to 8 years;
- (iii) The leadership of such formations, their financing and the provision to them of weapons, ammunition, explosives or military hardware are punishable by imprisonment for a period of 5 to 10 years;
- (iv) Participation within such formations in attacks on enterprises, establishments, organizations or the public is punishable by imprisonment for a period of 7 to 12 years;
- (v) In the event that the actions indicated above give rise to casualties or other serious consequences, they are punishable by imprisonment for a period of 10 to 15 years.

Criminal liability for the actions indicated above is waived for former members of such formations if they voluntarily leave the formations and inform the State or local authorities of the existence of the formations.

Pursuant to article 8 of the Criminal Code, the application of the law extends to foreigners and stateless persons not permanently resident in Ukraine who have committed a crime beyond its borders. These persons incur criminal liability for the commission of crimes under national legislation in the cases provided for by Ukraine’s international obligations. In addition, article 7 provides for the criminal liability of Ukrainian nationals and stateless persons permanently resident in Ukraine for crimes committed beyond the borders of the State.

Thus, when evidence is obtained that acts committed in Ukraine or beyond its borders which are not regarded as in essence criminal (for example, collecting funds or donations) are aimed at the attainment of terrorist objectives, criminal proceedings may be instituted under article 258 of the criminal code of Ukraine against the person who committed them.