

CXXIX. UZBEKISTAN²²⁴

SUMMARY OF LEGISLATION OF UZBEKISTAN RELATED TO TERRORISM

(a) Constitutional provisions

Under the Constitution of 8 December 1992, the Constitutional Court of the Republic of Uzbekistan interprets the law, on the basis of the Act of 30 August 1995 on the Constitutional Court of the Republic of Uzbekistan.

(b) Act of the Republic of Uzbekistan on the War against Terrorism 2000

The Act of 15 December 2000 on combating terrorism establishes the liability of individuals and organizations for participation in terrorist activities.

Under article 5 of the Act, prevention of terrorist activities involves a set of political, socio-economic, legal and other precautionary measures on the part of State authorities, local government bodies of citizens and public associations, as well as enterprises, institutions and organizations. Pursuant to this article, the following activities are prohibited:

- (i) Advocacy of terrorism;**
- (ii) Establishment and functioning of terrorist groups and organizations; accreditation, registration and functioning of any legal**

²²⁴ Transmitted to the Secretariat by that Government on 27 December 2001 (S/2002/4, enclosure), on 26 August 2002 (S/2002/974, enclosure) and on 19 August 2003 (S/2003/833, enclosure). Information was also provided in respect of other legislation, including the following: Act of the Republic of Uzbekistan on the State Customs Service, laundering; the Act on non-State non-profit organizations; Act on freedom of conscience and religious organizations; and the Civil Code. Information was also provided in respect of other provisions of criminal legislation: Chapter 8 - Crimes against the peace and security of mankind: article 154 (Mercenarism), article 156 (Incitement to national, racial or religious hatred); Chapter 9 - Crimes against the Republic of Uzbekistan: article 158 (Attacks against the President of the Republic of Uzbekistan), article 159 (Attacks against the constitutional order of the Republic of Uzbekistan) and article 161 (Sabotage); and Chapter 17 - Crimes against public security: article 242 (Organization of a criminal association), article 243 (Legalization of the proceeds of criminal activities), article 244-1 (Preparation and distribution of materials containing a threat to public security and public order), article 244-2 (Creation or direction of or participation in religious extremist, separatist, fundamentalist or other banned organizations), article 247 (Illegal possession of firearms, ammunition, explosive substances or explosive devices), article 251 (Illegal possession of virulent or toxic substances), article 252 (Illegal possession of radioactive materials), and article 255-1 (Preparation, manufacture, stockpiling, acquisition, transmission, maintenance, illegal possession and other activities involving bacteriological, chemical and other types of weapons of mass destruction).

entities, divisions (branches) and representations (including foreign and international organizations) involved in terrorist activities;

(iii) Entry into the Republic of Uzbekistan of foreign nationals and stateless persons involved in terrorist activities;

(iv) Concealment of information or facts concerning planned or committed terrorist acts.

The Act provides for measures and powers to counter the forces of international terrorism. In the context of the Act, recommendations were elaborated and submitted to the competent departmental units with the view to identifying persons involved in terrorist activities, with an enumeration of their characteristics. Measures are also in effect to avert, detect and intercept attempts to effect the illegal transport at crossing points on the State frontier of the Republic of Uzbekistan of narcotic drugs, psychotropic and explosive substances, explosive devices, munitions, weapons and ammunition, nuclear, biological, chemical or other types of weapons of mass destruction, or materials and equipment which could be used in committing terrorist acts, and additional powers are exercised in accordance with the legislation;

Activities are regulated by intergovernmental and interdepartmental agreements on matters related to the war against illicit narcotic drugs, psychotropic substances and precursors, and other violations of customs laws.

Under Article 8, the State bodies engaged in combating terrorism are:

- The National Security Service;
- The Ministry of Internal Affairs;
- The Committee on the Protection of the State Border;
- The State Customs Committee;
- The Ministry of Defence;
- The Ministry of Emergency Situations.

The National Security Service coordinates the activities of the State bodies involved in combating terrorism and ensures that they work together to prevent, detect and halt terrorist activity and minimize its effects.

Articles 9 to 14 of the Act define the powers of the bodies in article 8. They provide as follows:

Article 9. Counter-terrorism powers of the National Security Service of the Republic of Uzbekistan

The National Security Service of the Republic of Uzbekistan shall:

Conduct efforts to combat terrorism, including international terrorism, by preventing, detecting and interdicting terrorist activities;

Collect and analyse information on the activities of terrorists, terrorist groups and terrorist organizations, assess the threats posed by them to national security and provide the relevant ministries, State committees and departments with the necessary information;

Provide protection for particularly important or classified sites in the Republic of Uzbekistan and also for State establishments situated outside the territory of the Republic of Uzbekistan, the staff of such establishments and members of their families;

Ensure the safety and protection of the President of the Republic of Uzbekistan and of the heads of foreign States and Governments and the directors of international organizations during their stay in the territory of the Republic of Uzbekistan;

Cooperate with its counterparts in foreign States and international organizations in combating international terrorism;

Organize the work of counter-terrorist units to detect, neutralize and eliminate terrorist groups and organizations.

Exercise other powers in accordance with the law.

Article 10. Counter-terrorism powers of the Ministry of Internal Affairs of the Republic of Uzbekistan

The Ministry of Internal Affairs of the Republic of Uzbekistan shall:

Conduct efforts to combat terrorism by preventing, detecting and interdicting terrorist activities and minimizing their consequences;

Ensure the protection and security of particularly important classified or other sites;

Provide the relevant State or governmental bodies with information concerning individuals, groups and organizations linked with terrorist activities;

Exercise other powers in accordance with the law.

Article 11. Counter-terrorism powers of the State Committee on the Protection of the State Border of the Republic of Uzbekistan

The State Committee on the Protection of the State Border of the Republic of Uzbekistan shall:

Ensure the protection and defence of the State border from incursion by terrorists into the territory of the Republic of Uzbekistan;

Take action to detect and intercept the unlawful transfer across the State border of the Republic of Uzbekistan of arms, ammunition, explosives or radioactive, biological, chemical or other poisonous substances, objects or materials that may be used for the purposes of committing a terrorist act;

Neutralize or, where resistance is shown, take action to eliminate terrorists in border areas or border zones;

Exercise other powers in accordance with the law.

Article 12. Counter-terrorism powers of the State Customs Committee of the Republic of Uzbekistan

The State Customs Committee of the Republic of Uzbekistan shall:

Take action to prevent, detect and intercept the unlawful transfer through crossing points of the State border of the Republic of Uzbekistan of narcotic or psychotropic substances, explosives, explosive devices, armaments, arms and ammunition, nuclear, biological, chemical or other kinds of weapons of mass destruction or materials and equipment that may be used for terrorist activities;

Exercise other powers in accordance with the law.

Article 13. Counter-terrorism powers of the Ministry of Defence of the Republic of Uzbekistan

The Ministry of Defence of the Republic of Uzbekistan shall:

Ensure the security of the airspace of the Republic of Uzbekistan and defend and protect the administrative, industrial and economic centres and regions of the country and important military and other sites from aerial attack;

Ensure the protection and defence of military sites under its control;

Participate in counter-terrorist operations;

Exercise other powers in accordance with the law.

Article 14. Counter-terrorism powers of the Ministry of Emergency Situations of the Republic of Uzbekistan

The Ministry of Emergency Situations of the Republic of Uzbekistan shall:

Coordinate on-site activities of ministries, State committees, departments and bodies, adopt measures to protect the population from emergency situations, ensure the reliable functioning of particularly important classified and other sites that might be targeted by terrorists and also eliminate the effects of terrorist activities;

Exercise other powers in accordance with the law.

Under article 29 of the Act, the financial penalties consist of confiscation and transfer to the State of the assets of an organization recognized as a terrorist organization, regardless of its status. The confiscation of assets is possible only after a given organization has been recognized as a terrorist organization by a court of the Republic of Uzbekistan.

The legislation in force does not provide for any other financial penalties against individuals or legal entities for offences related to terrorist actions.

The courts of the Republic of Uzbekistan, in accordance with the requirements of articles 11 and 12 of the criminal legislation, are authorized within their areas of competence to bring to trial, as appropriate, the following persons:

- (i) Those who have committed offences in the territory of the Republic, if the offence was begun, completed or interrupted in the territory of Uzbekistan;
- (ii) Those who have committed offences beyond the borders of Uzbekistan, when the result of the criminal action takes place outside the country;
- (iii) Those who have committed offences in the territory of Uzbekistan, when the result of the criminal action takes place in the country's territory.

The liability of foreign nationals who have committed offences in the territory of the Republic of Uzbekistan is established on the basis of the norms of international law.

(c) Criminal Code

The Criminal Code of 22 September 1994 contains a series of articles that establish liability both directly for terrorism (article 155 "Terrorism") and for offences which contribute to the preparation and perpetration of terrorist acts, including: smuggling of various types of weapons and their ammunition (article 246 "Smuggling"); and actions related to the illegal circulation of weapons (article 247 "Illegal procurement of firearms, ammunition, explosive substances or explosive devices", article 248 on "Illegal possession of weapons, ammunition, explosive substances or explosive devices", and article 249 on "Negligent storage of firearms and ammunition").

Article 155, "Terrorism", defines terrorism and provides for the corresponding punitive measures: from eight to 20 years of imprisonment, and as an exceptional measure, the death penalty.

The term "terrorism" refers to violence, the use of force, other actions creating a danger to persons or property, or the threat of such actions, undertaken with a view to forcing a State body, an international organization or their officials, individuals or legal entities to carry out, or to refrain from carrying out, any activity with the aim of complicating international relations, violating sovereignty and territorial integrity, undermining State security, provoking war or armed conflict, destabilizing the social and political situation or alarming the population, but also activities aimed at maintaining the existence, functioning or financing of a terrorist organization, the preparation and commission of terrorist acts, as well as the direct or indirect provision or collection of any funds, resources or other services for terrorist organizations or persons who assist or participate in terrorist activities.

Terrorism poses a direct threat to the social relationships underpinning international security, and also threatens the life and health of citizens, their property and system of government.

The perpetrators of terrorism may be nationals of the Republic of Uzbekistan, foreign nationals or stateless persons 16 years or over.

Article 242 of the Criminal Code also establishes liability for the organization of criminal associations, i.e., the establishment or leadership of a criminal association or its subdivisions, as well as activities aimed at supporting their existence and functioning. This offence poses a threat to the social relationships underpinning public security. The offender may be any person aged 16 years or over who organizes criminal associations or leads subgroups of such criminal associations, or any other person who is engaged in activities aimed at creating the conditions for such associations to exist and operate.

The provisions of the international conventions on civil aviation safety which Uzbekistan has ratified are regulated by the Aviation Code of Uzbekistan and by chapter XVIII of the Criminal Code, on "Crimes against the safety of

traffic and the operation of transport”, and, more precisely, article 204, on “The hijacking or seizure of railway rolling stock or air, seagoing or river craft”, article 265, on “Violation of international aviation rules”, article 266, on “Violation of the rules governing the safety of traffic and the operation of means of transport” and article 245, on “Hostage-taking”.

Article 245 of the Criminal Code, entitled “Hostage taking” refers to the offence of taking or holding a person hostage with a view to coercing the State, an international organization or an individual or legal entity into taking or refraining from taking any action or meeting any condition for the freedom of the hostage, unless the provisions of articles 155 and 165 of the Criminal Code apply.

This type of offence poses a direct threat to the social relationships underpinning public security. The offenders may be nationals of Uzbekistan, foreign nationals or stateless persons aged 16 years or over.

Article 254 of the Criminal Code, entitled “Illegal handling of radioactive materials”, refers to the illegal acquisition, storage, use, transfer or destruction of radioactive materials, i.e., sources of ionizing radiation, radioactive substances or nuclear materials in any physical state, as an installation or product, or in any other form, resulting in moderate or serious bodily harm.

This offence poses a direct threat to the social relationships underpinning public security. The instruments used are radioactive materials, radioactive substances or nuclear materials. The offender may be any person aged 16 years or over.

Article 255 of the Criminal Code, entitled “Violation of the rules for the operation of nuclear installations” refers to a violation of the rules for the operation of nuclear power facilities, resulting in moderate or serious bodily harm.

This offence poses a direct threat to the social relationships underpinning public security. The offender may be any person of sound mind aged 16 years or over.

Article 255 of the Criminal Code, entitled “Development, production, accumulation, acquisition, transfer, storage, illegal seizure and other acts in relation to bacteriological, chemical and other types of weapons of mass destruction” refers to the development, production, accumulation, acquisition, transfer, storage, illegal seizure and other acts in relation to bacteriological (biological), chemical and other types of weapons of mass destruction that are prohibited by the international treaties to which the Republic of Uzbekistan is a party.

Article 256 of the Criminal Code, entitled “Violation of safety regulations during research work”, refers to the violation of safety regulations during scientific research or experimental work, resulting in moderate or grave bodily harm.

This offence poses a direct threat to the social relationships underpinning public security. The offender may be any person of sound mind aged 16 years or over.

Nationals of the Republic of Uzbekistan and stateless persons permanently residing in Uzbekistan who commit offences in the territory of another State are liable to prosecution under the Criminal Code of Uzbekistan if they have not been punished under a verdict issued by a court of the State in the territory of which the offence was committed.

A national of Uzbekistan cannot be extradited for an offence committed in the territory of a foreign State, unless otherwise provided under international treaties or agreements.

Foreign nationals and stateless persons not residing permanently in Uzbekistan can be tried under the Criminal Code of the Republic of Uzbekistan for offences committed outside the country only in cases for which provision is made in international agreements or treaties.

(d) Code of Criminal Procedure

The procedure for the freezing (seizure) of bank accounts and deposits is regulated by the Code of Criminal Procedure of the Republic in accordance with article 290 (Seizure of property).

Under article 211, paragraphs 1 and 5 of the Code of Criminal Procedure, when issuing a verdict in a criminal case (including cases of offences related to terrorist actions), the court shall resolve questions related to material evidence in accordance with the following rules:

(i) Weapons belonging to the suspect, the accused or the defendant that were used in the offence shall be subject to confiscation and shall be transferred to the appropriate institutions or destroyed;

(ii) Money and other assets which have been acquired by criminal means shall be used to provide restitution for material damage caused by the offence, on the basis of a court order; where it has not been established that anyone has suffered material damage, such assets shall be turned over to the State.