

CXXXI. VENEZUELA²²⁶

SUMMARY OF LEGISLATION OF VENEZUELA RELATED TO TERRORISM

(a) Constitutional provisions

The Constitution of the Bolivarian Republic of Venezuela, as the supreme legal instrument, provides in article 23 that: "The treaties, covenants and conventions relating to human rights signed and ratified by Venezuela have constitutional force and shall prevail in the internal order to the extent that they comprise standards on the enjoyment and exercise of human rights more favourable than those established in the Constitution and in the legislation of the Republic, and shall be immediately and directly applicable by the courts and other governmental bodies."

Article 154 of the Constitution sets forth the procedure to be followed in connection with international treaties signed by the Republic and provides that treaties adopted by the Republic must be approved by the National Assembly and subsequently by the President of the Republic in order to be ratified. Upon ratification, an international treaty automatically becomes a law within the current Venezuelan legal framework, ratification being the process whereby the State, under its domestic law, establishes the requirements to undertake binding international obligations.

(b) Penal provisions

The legal provisions currently in force in Venezuela do not establish terrorism as an independent offence; however, the National Assembly approved the Act against Organized Crime at first reading (6 September 2001) the purpose of which is to prevent, investigate, prosecute and punish offences committed by organized crime, to establish the offences that are deemed to be characteristic of, or specific to, such criminal organizations and define the membership of organized criminal associations.

Article 9 of the Act provides that anyone belonging to and/or acting in the service of, or collaborating with, armed gangs, organizations or groups

²²⁶ Transmitted to the Secretariat by that Government on 20 November 2001 (S/2001/1137, enclosure), on 26 December 2001 (S/2001/1289, appendix) and on 24 July 2002 (S/2002/790, enclosure). Information was also provided in respect of other legislation, including the following: the Arms and Explosives Act published in *Gaceta Oficial* No. 19.900, dated 12 June 1939; the Act approving the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials of 14 November 1997 Convention which was published in *Gaceta Oficial* No. 37.357 of 4 January 2002; the General Act on Banks and Other Financial Institutions; the Organic Law on Narcotic Drugs and Psychotropic Substances; and the Aliens Act of 17 July 1937.

engaged in organized crime the purpose of which is to subvert the constitutional order and the democratic institutions or to seriously impair public peace and to cause criminal damage, disasters or fire, or to explode mines, bombs or other explosive devices established in the Penal Code and in the Act, respectively, shall be punished by a term of imprisonment of between 10 and 15 years.

In the same context, on 29 November 2001, the National Assembly approved at first reading the draft special law against terrorist acts the purpose of which is to prevent and punish acts that may be regarded as being of terrorist nature. To that end, it imposes a term of imprisonment of between 15 and 25 years penal servitude on any person committing the acts established therein as terrorism. It also imposes a term of between 20 and 30 years penal servitude on anyone taking part in and financing terrorist acts through the process of laundering the proceeds of illicit drug trafficking.

In accordance with the provisions of article 4.2 of the Venezuelan Penal Code:

The following shall be subject to judicial process in Venezuela and shall be punished in accordance with the criminal law:

1. Venezuelans who, in a foreign country, are accused of treason against the Republic and who commit acts against one another that are punishable under its laws.
2. Foreign subjects or citizens who, in a foreign country, commit any offence against the security of the Republic or against any of its nationals.

Thus, Venezuelan courts are competent to investigate, prosecute and, where appropriate, try any offence committed outside Venezuelan territory against the Republic; such acts clearly include terrorist acts or preparations for terrorist acts.

In accordance with article 6 of the Code:

“The extradition of a Venezuelan may not be granted on any grounds; but he must be tried in Venezuela, at the request of the aggrieved party or of the Public Prosecutor’s Office, if the crime of which he is accused is punishable under Venezuelan law.

“The extradition of an alien may not be granted for political offences or for breaches of law relating to such offences, or for any action not established as an offence by Venezuelan law.

“The extradition of an alien for ordinary crimes may be granted only by the competent authority, in accordance with the procedures and requirements established for that purpose by the international treaties signed by Venezuela and which are in force or, failing that, by Venezuelan legislation ...”