

or permanent resident of Malaysia or if the terrorist acts specified are committed on a Malaysian registered vessel or aircraft, Malaysia would claim jurisdiction over the offence as if the offence had been committed within Malaysia and, where the evidence is sufficient, duly prosecute such person in accordance with the law. Malaysia has not had to invoke the Extra-territorial Jurisdiction Act 1976 to date as those suspected of compromising the security of Malaysia have committed their acts within Malaysia.

LXVII. MALTA⁴

SUMMARY OF LEGISLATION OF MALTA RELATED TO TERRORISM

There is no definition of “terrorism” or “terrorist acts” in the Maltese Criminal Code. However, terrorist acts are generally punishable under the current Criminal Code though not as terrorist acts as such. However, the act of making any funds, financial assets, or economic resources or financial or other related services available for the benefit of persons involved in the commission of any crime punishable under the Criminal Code, is punishable as such under the same code.

Since there is currently no definition of “terrorism”, “terrorist” or “terrorist act” in Maltese law, there is no specific law denying a safe haven to “terrorists” though many of the acts committed by terrorists are punishable under the current Criminal Code.

Acts of violence usually linked to terrorism are dealt with as criminal offences in sections 311 to 328 of the Criminal Code, under the sub-title ‘Of Crimes against the Public Safety and of Injury to Property’

Furthermore section 5 of the Criminal Code concerning jurisdiction of the Maltese Courts makes special provision for the extension of jurisdiction over certain criminal offences committed against internationally protected persons, even when such offences are committed outside Malta.

Following are the legal provisions establishing as criminal offences acts related to terrorism together with an indication of the relative penalty:

- promoting, constituting, organising or financing an organisation of two or more persons with a view to committing criminal offences (Section 83A – Criminal Code; Chapter 9 of the Laws of Malta) from 3

⁴ Transmitted to the Secretariat by that Government on 21 December 2001 (S/2001/1250, enclosure) and 11 January 2002 (S/2002/876, enclosure). Information was also provided in respect of the Refugees Act of 2000 (came into force on 1 October 2001), the Prevention of Money Laundering Act, the Arms Ordinance, and the Immigration Act.

to 7 years increased to 4 to 20 years where the number of persons is ten or more;

– belonging to an organisation as aforesaid (Section 83A – Criminal Code; Chapter 9 of the Laws of Malta) from 1 to 5 years increased to 18 months to 9 years where the number of person in the organisation is ten or more;

– In the case of bodies corporate the punishment for the above offences varies from a minimum of 10, 000 Maltese liri to 500, 000 Maltese liri;

– “Illegal Arrest, Detention Or Confinement⁵”: from 7 months to 2 years imprisonment increased to 13 months to 3 years in aggravated cases;

– illegal arrest, detention or confinement when the offender threatens to kill, to injure or to continue to detain or confine the person arrested, detained or confined with the object of compelling a state, an international governmental organisation or person to do or to abstain from doing an act⁶: life imprisonment;

– “theft of nuclear material⁷”: from 7 months to 2 years in the simplest cases but may go up to life imprisonment in aggravated circumstances;

– “maliciously causing an explosion of a nature likely to endanger life or to cause serious injury to the property of others⁸”: from 3 to 14 years imprisonment even though no injury to person or property has been caused;

– the above punishment not in its minimum if serious damage to property is caused,⁹

– life imprisonment if a person dies as a result;¹⁰

– 4 to 20 years if grievous bodily harm is caused;¹¹

– making or knowingly being in possession or having under one’s control any explosive substance in circumstances giving rise to a

⁵ Sections 86 and 87 (1).

⁶ Section 87 (2).

⁷ Section 271 and 281.

⁸ Section 311.

⁹ Section 312 (3).

¹⁰ Section 312 (1).

¹¹ Section 312 (2).

reasonable suspicion that the explosive is meant for an unlawful object¹²:
18 months to 9 years;

– malicious delivery, placing, discharging or detonating a lethal device likely to endanger life or to cause serious injury to property¹³:
from 3 to 14 years imprisonment even though no injury to person or property has been caused;

– the above punishment not in its minimum if serious damage to property is caused;

– life imprisonment if a person dies as a result;

– 4 to 20 years if grievous bodily harm is caused;

– the above punishments are increased by one degree where the offence takes place in, or is directed at, a public place, a state or government facility, an infrastructural facility, or a public transportation system;

– malicious possession or making, use, transfer, alteration, disposal, or dispersal of nuclear material likely to cause death or serious injury to any person or substantial damage to property¹⁴: from 3 to 14 years imprisonment even though no injury to person or property has been caused;

– life imprisonment if a person dies as a result;

– 4 to 20 years if a grievous bodily harm is caused;

– knowingly keeping, being in possession or having under one's control any nuclear material in circumstances giving rise to a reasonable suspicion that the explosive is meant for an unlawful object¹⁵: 18 months to 9 years;

– willfully setting on fire or otherwise destroying any arsenal, vessel of war, powder magazine, public dock or artillery park¹⁶: life imprisonment;

– willfully setting on fire any house, warehouse, shop, dwelling house, vessel, dock or any building, shed or other place whatsoever, any person being therein at the time¹⁷: life imprisonment;

¹² Section 313.

¹³ Section 314A and 311.

¹⁴ Section 314B (1) and 311.

¹⁵ Section 314B (3) and 313.

¹⁶ Section 315.

¹⁷ Section 316.

- if no one dies, but it could have been foreseen that a person was in the place: from 9 to 12 years;
- otherwise: from 5 to 9 years;
- wilfully setting on fire any house, warehouse, shop, dwelling house, vessel, dock or any building, shed or other place whatsoever, no person being therein at the time, or wilfully setting on fire any combustible substance which could communicate to any other building etc. any person being therein at the time¹⁸: life imprisonment where the fire actually communicates as aforesaid reduced to 3 to 9 years, depending on circumstances, if no person dies as a result;
 - from 3 to 5 years if the fire does not communicate;
- wilfully setting on fire any house etc. no person being present and provided the fire could not communicate to a place where a person is present¹⁹: 2 to 4 years imprisonment;
- hijacking²⁰: life imprisonment;
- acts of violence against a person on board an aircraft in flight likely to endanger the safety of the aircraft²¹: life imprisonment;
- destruction of an aircraft in service or damage to such aircraft in a manner as to render it incapable of flight or which is likely to endanger its safety in flight²²: life imprisonment;
- placing or causing to be placed on an aircraft in service a device or substance likely to destroy or to cause damage to that aircraft rendering it incapable of flight or likely to endanger its safety in flight²³: life imprisonment;
- communicating information known to be false so as to endanger the safety of an aircraft in flight²⁴: life imprisonment;
- by the unlawful and intentional use of any device, substance or weapon performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death, or destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service

¹⁸ Section 317.

¹⁹ Section 318.

²⁰ Section 13 – Civil Aviation (Security) Act (Chapter 353 of the Laws of Malta).

²¹ Section 19 (1)(a).

²² Section 19 (1)(b).

²³ Section 19 (1)(c).

²⁴ Section 19 (1)(d).

located therein or disrupts the services of the airport²⁵: life imprisonment if such act endangers or is likely to endanger the safety of that airport or to such lesser punishment being not less than three years imprisonment as the Court may deem fit;

– the unlawful and intentional destruction or damage of air navigation facilities or interference with their operation in such a manner as is likely to endanger the safety of the aircraft in flight²⁶: life imprisonment;

– by means of any device, substance or weapon intentionally to commit at an airport serving civil aviation any act of violence which causes or is likely to cause death or serious personal injury and endangers or is likely to endanger the safe operation of the airport or the safety of persons at the airport²⁷: life imprisonment;

– by means of any device, substance or weapon unlawfully and intentionally to destroy or seriously damage property used for the provision of any facilities at an airport serving civil aviation or any aircraft which is at such an airport but not in service, or to disrupt the services of such an airport in such a way as to endanger or is likely to endanger the safe operation of the airport or the safety of persons at the airport²⁸: life imprisonment.

It should be noted that Act I of 2001 amended the Interpretation Act (Chapter 249 of the Laws of Malta) by the addition, *inter alia*, of the following provision:

Section 3 (4)(c): The terms "crimes against humanity", "crimes against international law" and "political offence" shall have the same meaning assigned to them under customary international law in general and in international instruments to which Malta may be a party in particular.

The amendment which has been made to the Interpretation Act concerning political offences does not include an amendment to the Maltese Constitution since the amendment to the Interpretation Act is considered sufficient for the purpose.

Financing of terrorism

In addition, the financing of terrorist acts is criminalised as is the financing of terrorist organisations under the provisions of existing legislation. The financing of terrorist acts would amount to complicity in the terrorist act or to

²⁵ Section 19 (2).

²⁶ Section 20.

²⁷ Section 8 (1) – Airports and Civil Aviation (Security) Act (Chapter 405 of the Laws of Malta).

²⁸ Section 8 (2).

conspiracy to commit the terrorist act. The financing of a terrorist organisation would amount to the offence of promoting, constituting, organising or financing an organisation with a view to commit criminal offences. For complicity the same punishment is due as for the perpetrator of the offence, while for conspiracy the same punishment is due as for the completed offence with a decrease of two or three degrees.

By Act III of 2002 the new offences of promoting, constituting, organising or financing an organisation of two or more persons with a view to committing criminal offences and of belonging to an organisation as aforesaid were introduced. The recruitment of members of terrorist groups and the collection of funds for such groups now constitute one of the said offences.

Territorial application

Not all the provisions of the Criminal Code apply to acts committed outside Malta by a citizen of or habitual resident in Malta or to acts committed outside Malta by a foreign national who is currently in Malta. The Maltese Courts, however, have jurisdiction over all terrorism-related offences, when, inter alia, these are committed outside Malta by a citizen of Malta or by a permanent resident in Malta as well as over the same offences when committed outside Malta by a foreigner currently in Malta.

LXVIII. MARSHALL ISLANDS²⁹

1. SUMMARY OF LEGISLATION OF THE MARSHALL ISLANDS RELATED TO TERRORISM

The Marshall Islands has enacted laws against terrorism of all kind and also established mechanisms that would counter terrorist acts all over its territory. These include legislation covering banking, money laundering, importation and exportation of weapons of mass destruction including small arms and light weapons. In particular, in 2002, the Parliament enacted the following legislations:

The Counter-Terrorism Act
The Proceed of Crimes Act
Amendinents to the Banking Act; re Money Laundering

²⁹ Transmitted to the Secretariat by that Government on 13 January 2003 (S/2003/145, enclosure) and 3 September 2003 (S/2003/1039, enclosure). Information was also provided in respect of the Marshall Islands Banking Act, 1987; the Mutual Assistance in Criminal Matters Act, 2002; the Controlled Substance Act, 2002; the Transnational Extradition and Transfer of Convicted Persons Act, 2002; the Foreign Evidence Act, 2002; the Banking Amendment Act, 2002; Public Law 2000-2, Public Law 2002-65. In addition, Bill 101 of 2002, containing the proposal for the Counter-Terrorism Act, 2002 was submitted on 28 May 2003.