

Section 110 of the Act contains the provisions for provisional seizure of assets likely to be used in the commission of offences relating to terrorism and its financing. It also contains the provisions for forfeiture of assets after the conviction of an offence related to terrorism.

LXXXVIII. PANAMA⁶¹

SUMMARY OF LEGISLATION OF PANAMA RELATED TO TERRORISM

(a) Penal Code

The following penalties for terrorist activities and the supply of weapons to terrorists are contained in Section III, entitled "Offences against the international community", of the Penal Code established by Act No. 18 of 22 September 1982:

Article 311

Anyone who participates in the destruction, in whole or in part, of a specific group of human beings, on grounds of their nationality, race or religious or political beliefs, shall be subject to 15 to 20 years' imprisonment.

The same penalty shall apply to anyone who, in order to destroy, in whole or in part, a specific group of persons and for the reasons described in the previous paragraph, commits any of the following acts:

1. Causes bodily or mental harm to members of those groups;
2. Places such groups at risk.

Article 312

Anyone who recruits persons, stockpiles weapons or carries out other hostile acts not approved by the Government and undertaken within the territory of the Republic or abroad against another State, thereby exposing Panama to the risk of war or the breaking-off of international relations, shall be subject to three to six years' imprisonment.

⁶¹ Transmitted to the Secretariat by that Government on 16 January 2002 (S/2002/76, appendix) 14 October 2002 (S/2002/1184, appendix), and 7 July 2003 (S/2003/701, appendix).

If, as a consequence of the above-mentioned acts, war is declared on the Republic, the penalty shall be 10 to 15 years' imprisonment.

Article 242

When three or more persons associate together for the purpose of committing offences, each of them shall be punished, for that act alone, by imprisonment for one to three years.

The penalty shall be increased by one fourth for those who instigate, lead or direct the unlawful association.

Moreover, articles 243 to 245 of chapter IV of the Penal Code establish penalties for piracy against a ship or the persons on board. It also applies to anyone who assists those committing an act of piracy to hand over a ship, its cargo or items belonging to the crew; anyone who by threat or force attempts to prevent the commander or crew from defending the ship against hijackers; anyone who equips a vessel for use in acts of piracy; and anyone who knowingly deals with or assist hijackers and who by force or threat seizes control of an aircraft. A penalty is established for anyone who by force or threat seizes control of an aircraft.

Article 184 (a) of the Penal Code, contained in title IV on offences against property, in Chapter I (Theft) provides penalties of three to six years' imprisonment for anyone who seizes an automobile, maritime vessel, aircraft or river vessel, and of 5 to 10 years' imprisonment if the offence is committed by two or more persons or if the intention of the offence is to remove the vehicle outside the national territory.

Article 238 of chapter II of the Penal Code (Offences against means of transportation and communication) stipulates that a sentence of 1 to 6 years' imprisonment will be imposed on anyone who performs any action endangering the safety of means of land or maritime transportation. If such an act results in a collision, derailment, shipwreck, beaching, plane crash or other serious accident, the penalty will be 6 to 10 years' imprisonment. If the disaster causes harm to someone, the penalty will be 6 to 15 years' imprisonment; if it causes someone's death, the penalty shall be 8 to 18 years' imprisonment.

In title IV of the Penal Code, on offences against property, chapter VIII (Damage) stipulates that penalties shall be imposed on anyone who destroys, renders unusable, breaks or in any way damages movable or immovable property belonging to another person and that an aggravated penalty of 6 months' to two years' imprisonment and a fine of 50 to 100 days will be imposed if the offence involves "destruction of or serious damage to residences or individual offices in public buildings or buildings intended for public use or for any form of worship, in military buildings or installations, ships or aircraft owned by the State, public monuments or cemeteries, or property of scientific, cultural, historic or artistic value" (article 201, paragraph 3).

With respect to the offences of extortion and kidnapping, article 188 (a) of chapter III of the Penal Code states that anyone who abducts a person in order to obtain as ransom from the abductee or anyone else, money, property or documents with any kind of legal effect for himself or for other persons designated by him will be subject to 5 to 12 years' imprisonment. It also describes several different situations. In the first, anyone who kidnaps a public servant or a person enjoying immunity recognized under international law is deemed to have committed an offence and is liable to the appropriate penalty. In the second situation, anyone who abducts a guest of the Panamanian Government or of any public entity or a person attending a meeting, symposium, seminar or other event organized by any State body is deemed to have committed an offence and is liable to the appropriate penalty.

Articles 314 to 316 of chapter III of the Penal Code (Offences against the international community) provide penalties for violation of the immunity of the head or a representative of a foreign State and offences against the dignity or office of such persons, when they are on Panamanian territory. Offences against representatives of foreign States accredited to the Government of Panama are also punishable by the same penalties imposed for such crimes when they are committed against Panamanian public servants. Article 132, paragraph 8, of the Penal Code describes this as an aggravating circumstance to the offence of homicide, which in turn incurs a sentence of 12 to 20 years' imprisonment.

Article 151 of chapter III of the Penal Code (Crimes against individual freedom) provides that a sentence of 6 months' to 3 years' imprisonment will be imposed on anyone who unlawfully deprives another person of his or her freedom. If the offence under article 151 is committed using threats, cruelty or deceit, or with intent to obtain revenge or profit, or if the offence results in serious damage to the health or property of the victim, such action will be regarded as an aggravating circumstance and the sentence will be 2 to 6 years' imprisonment.

Title VII of the Penal Code (Offences against collective security), and specifically chapter I (Fire, flood and other offences endangering the public), provides in article 232 that a sentence of 3 to 8 years' imprisonment will be imposed on anyone who through fire or explosion creates a public danger to property or persons. There are two aggravating circumstances for this offence: the first provides for a penalty of 4 to 12 years' imprisonment in the event of fire, explosion or destruction of property of scientific, artistic, historic, religious, military or economic interest or of interest to public security, or in the event that someone is in danger or dies; the second provides a penalty of 8 to 18 years' imprisonment if the action is the immediate cause of someone's death.

In the same way, article 237 provides a sentence of 2 to 6 years' imprisonment for anyone who provides, manufactures, acquires, steals or possesses bombs or explosive, flammable, asphyxiating or toxic substances or materials designed for use in an attack on the security of the State.

(b) Act No. 41 of 2 October 2000

Act No. 41 on capital laundering, which defines terrorism as an underlying crime, provides, in its final provisions, for the seizure of money, assets, securities or other economic resources connected with the offence of capital laundering.

(c) Decree Law No. 16 of 30 June 1960

Article 37 of Decree Law No. 16, as replaced by article 10 of Act No. 6 of 5 March 1980, establishes restrictions on immigration to Panama. Paragraphs (g) and (h) establish the following provisions for controlling the entry of paramilitaries into the country and their subsequent establishment therein:

Article 37

Aliens in any of the following circumstances may not immigrate to Panama:

(g) Aliens belonging to parties, groups or organizations that aim to destroy the established political and social order;

(h) Anarchists, terrorists and other persons who advocate the use of force and violence against the established authorities in order to sow confusion and spread chaos.

Thus, persons who finance, plan or perpetrate terrorist acts, pledge support for such acts or offer protection to terrorists, may be refused entry into Panamanian territory.

(d) Decree No. 354

The use of weapons, ammunition and explosives is regulated by Decree No. 354 of 29 December 1948.

(e) Judicial Code

Panama applies a principle of double incrimination with regard to extradition. In order for extradition to be carried out, the offence must be a crime under the legislation of both countries, as stated in Article 2500 of the Judicial Code.

Panama will not refuse to extradite alleged terrorists who claim political motives. Article 2504, paragraph 7, of the Judicial Code provides as follows:

Article 2504

Extradition shall not be granted in the following cases:

If, in the opinion of the Ministry of Foreign Affairs, the person or persons in question are being prosecuted for political offences or their extradition is being requested for reasons that are primarily political. The kidnapping, homicide or assassination of a Head of State or of any person in exercise of public authority at the time of such crime shall not be deemed a political offence.

LXXXIX. PARAGUAY⁶²

SUMMARY OF LEGISLATION OF PARAGUAY RELATED TO TERRORISM

In Paraguay, provision or collection of funds in order to carry out terrorist acts is not a separate crime. However, the Penal Code and legislation cover conduct directly related to such acts. The following articles of the Penal Code are relevant:

Article 196 – (Money Laundering);

Article 237 – (Incitement to commit punishable acts);

Article 238 – (Justification of the offence);

Article 239 – (Criminal association);

Article 263 – (Production of counterfeit currency);

Article 264 – (Circulation of counterfeit currency);

Article 265 – (Production and circulation of counterfeit official stamps);

Article 266 – (Preparation for the production of counterfeit currency and stamps)

The Aviation Code in force in Paraguay by virtue of Act 469/57, in chapter II on (aviation) crimes, does not define a punishable offence specifically related to the commission of acts of terrorism against civil aviation. However,

⁶² Transmitted to the Secretariat by that Government on 24 December 2001 (S/2001/1293, enclosure), 11 July 2002 (S/2002/878, enclosure) and 3 July 2003 (S/2003/700, appendix). Information was also provided in respect of Migration Act 978/96, Code of Penal Procedure, Act 1015/97 on preventing and penalizing unlawful acts to launder money or property.