

chapter IV, article 11, paragraph 1, of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, ratified by Act 252/71, defines what is meant by unlawful seizure of aircraft. Article 1 of the Convention for the Suppression of the Unlawful Seizure of Aircraft, ratified by Act 290/71, makes it an offence unlawfully to seize an aircraft in flight, and article 2 requires the Contracting States to make the offence punishable by severe penalties. Article 1 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, ratified by Act 425/73, defines various offences against civil aviation, and article 3 requires Contracting States to make them punishable by severe penalties.

The Penal Code, title III, chapter III, "Offences against the safety of persons in transit", sets penalties for a number of aviation offences, incorporating in domestic law the offences defined in the above-mentioned international conventions. The following articles are relevant:

Article 213 – (Attacks against civil air and maritime traffic);

Article 214 – (Dangerous interference with air, maritime and rail traffic);

Article 215 – (Endangering air, maritime and rail traffic).

XC. PERU⁶³

SUMMARY OF LEGISLATION OF PERU RELATED TO TERRORISM

(a) Decree Law No. 25475 of 5 May 1992

Decree Law No. 25475 punishes crimes of terrorism, including the financing of acts of terrorism, and establishes procedures for investigation and prosecution.

In accordance with Article 2, a terrorist act is an action carried out by one or more persons for the purpose of provoking, creating or maintaining a state of anxiety, alarm or fear in the population or a sector thereof, with a view to changing the power structure by installing a form of a totalitarian government. Such acts are considered to be multiple offences because, through a single action, they injure or harm several legal rights protected and regulated by the Constitution and by the criminal laws in force.

⁶³ Transmitted to the Secretariat by that Government on 9 January 2002 (S/2002/52, enclosure), 24 September 2002 (S/2002/1085, annex) and 12 August 2003 (S/2003/896, enclosure).

Under Article 3, a terrorist group is a group of people who associate for a specific purpose, guided by a philosophy or ideology, and which is duly organized and structured under the direction of a leader, chief or head and in which each member is assigned previously delegated and defined functions, for the purpose of carrying out terrorist acts.

Article 4, concerning collaboration, provides that:

“Anyone who wilfully secures, gathers, collects or supplies any goods or means or in any manner engages in acts such as to further the commission of offences referred to by this Decree Law or furthers the goals of a terrorist group, shall be punished by a term of imprisonment of no less than 20 years”.

The following constitute acts of collaboration:

- (a) The supplying of documents or information on persons, assets, installations, public or private buildings or anything else that specifically assists or facilitates the activities of terrorist groups or elements.
- (b) The transfer or use of any type of lodging or other means susceptible of serving to conceal persons or store weapons, explosives, propaganda, provisions, medicines or other items connected with terrorist groups or with their victims.
- (c) The intentional transport of persons belonging to terrorist groups or connected with their criminal activities and the rendering of any kind of assistance to help them to flee.
- (d) The organization of courses or the managing of centres for the indoctrination and instruction of terrorist groups, operating under any cover.
- (e) The manufacture, acquisition, possession, theft, storage or supplying of arms, ammunition or explosive, asphyxiating, inflammable, toxic or any other type of substances or objects that might cause death or injury. The possession or concealment of arms, ammunition or explosives belonging to the armed forces or the National Police of Peru constitutes an aggravating circumstance.
- (f) Any form of economic assistance, aid or mediation provided or done voluntarily for the purpose of financing the activities of terrorist groups or elements.”

Under Article 5, the perpetrator is liable to punishment by virtue of the mere fact of belonging to a terrorist group. In this Article, no distinction is made between national or foreign groups.

Article 7 condemns statements in favour of terrorism. It also establishes that Peruvian citizens who advocate terrorist acts outside the territory of the Republic shall be punishable not only by imprisonment but also by the loss of Peruvian citizenship⁶⁴.

(b) Procedural Act No. 27379 of 20 December 2000

Procedural Act No. 27379 provides for special restrictions on rights during preliminary investigations.

Under Article 1 of the Act, restrictions of rights in the course of preliminary judicial investigations may be imposed in the case of investigations of the offences of terrorism provided for in Decree Law No. 25475.

Under Article 2, the provincial prosecutor may, in the event of a clear emergency, seek from the criminal court judge a number of restrictions, including the lifting of bank secrecy and tax confidentiality.

(c) Penal Code

Article 279 establishes penalties for the illegal possession and manufacture of arms, ammunition and explosives; inflammable, asphyxiating or toxic substances; substances or materials intended for their preparation. The penalty ranges from 6 to 15 years' imprisonment.

Article 297 stipulates that "the punishment shall be life imprisonment when.... the perpetrator uses narcotrafficking to finance the activities of terrorist groups."

Article 338 defines the perpetration, within the territory of the Republic, of any act intended to change the political structure of a foreign State through violence as an "offence jeopardizing the foreign relations of the State". Such an offence (conspiring against a foreign State) is punishable by imprisonment for up to five years. Consequently, if terrorists act within the national territory in order to carry out acts of terrorism in other countries, their acts will be covered by these provisions.

⁶⁴ In addition, Decree Law No. 25880 provides penalties for statements in favour of terrorism by teachers or professors, with a view to preventing them from influencing their students.

(d) Decree Law 25659 of 12 August 1992

Decree Law No. 25659 provides regulations on the crime of high treason. This offence is an aggravated form of terrorism.

Article 1 stipulates as follows:

The crime of high treason is constituted by the commission of the acts provided for in article 2 of Decree Law No. 25475, when the following modalities are employed:

(a) The use of 'car bombs' or similar devices, explosives, weapons of war or the like, causing death to individuals, injury to their physical integrity or mental health or damage to public or private property or likely in any other manner to cause serious danger to the population;

(b) The unlawful possession or storage of explosives, ammonium nitrate or components entering into the manufacture thereof or the voluntary provision of inputs or components capable of being used in the manufacture of explosives for use in the acts referred to in the preceding subparagraph.

Article 2 stipulates that:

High treason is committed by:

(a) A person who holds a leadership position of a terrorist organization, be it as leader, head or the like;

(b) A member of an armed group, gang, death squad or similar group of a terrorist organization, being charged with the elimination of persons;

(c) A person who provides or spreads reports, data, plans, projects or other documentation or allows terrorists access to buildings or premises in his charge or care in order to promote the results referred to in subparagraphs (a) and (b) of the foregoing article.

Article 3 stipulates that the applicable penalty for the crime of high treason is life imprisonment, as established in subparagraph (a) of Decree Law No. 25475. This penalty is applicable in cases where the perpetrator belongs to the leadership of a terrorist organization, be it as leader, head, chief, secretary or in any other similar capacity, at the national level, there being no distinction as to the function he performs in the organization. The same applies if the perpetrator is a member of an armed group, gang, death squad or the like, of a terrorist organization, entrusted with the physical elimination of defenceless persons or groups of persons, irrespective of the means employed.