

attacks against the freedom of foreign heads of State, the penalty for which is imprisonment (article 219); acts disgracing foreign heads of State in Libyan territory or attacks on their honour, which are punishable by imprisonment for a term of not less than five years (article 220); aggression against representatives of foreign States accredited in Libya, to which the provisions of the three preceding articles apply (article 221); and aggression against the flag of a foreign State or an international organization, which is punishable by imprisonment (article 222). As for article 168, it relates to the offence of recruitment or mobilization against a foreign State or the perpetration of hostile acts against such a State that are likely to expose the Libyan Arab Jamahiriya to the risk of war or the severance of diplomatic relations with the State concerned or to lead to retaliation against it or against its nationals, wherever they may be.

(b) Act No. 29/1994 concerning weapons and ammunition

Libyan Act No. 29/1994 prohibits the acquisition, possession and manufacture of and trade in weapons, ammunition and explosives of any kind by any person not licensed therefore by the competent authority. Detailed definitions of weapons are provided in lists annexed to the Act and are extended to include edged weapons, such as knives. The Act specifies the procedures for the granting of licences to individuals for the possession of weapons and establishes stringent conditions and restrictions in that regard.

The Act establishes the penalty of life imprisonment for anyone who possesses, acquires, buys, sells, delivers, transports or presents any arms, ammunition or explosives for the purposes of trafficking or traffics in them in any manner whatsoever outside of the cases specified in the Act.

## LXII. LIECHTENSTEIN<sup>146</sup>

### 1. LAW ON AMENDMENT OF THE CRIMINAL CODE (STRAFGESETZBUCH, StGB)

#### AMENDMENT OF EXISTING LAW

The Criminal Code (Strafgesetzbuch, StGB) of 24 June 1987, Liechtenstein Legal Gazette (Liechtensteinisches Landesgesetzblatt, LGBl.) 1988 No. 37, in the version of the Law of 25 October 2000, LGBl. 2000 No. 256, shall be amended as follows:

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<sup>146</sup> Transmitted to the Secretariat by that Government on 21 December 2001 (S/2001/1253, enclosure), 24 June 2002 (S/2002/788, enclosure) and 10 February 2003 (S/2003/273, enclosure). Information was also provided in respect of the Due Diligence Act, the Refugee Law, the Law on Mutual Legal Assistance and the Law on Persons and Companies.

*§ 20 para. 3*

3) A perpetrator who has gained pecuniary advantages during the time connected to his membership of a criminal organization (§ 278a) or a terrorist group (§ 278b) shall be sentenced to pay an amount of money set by the Court's assessment to be equal to the enrichment obtained, if the assumption seems likely that such pecuniary advantages originate from criminal offenses and their lawful origin cannot credibly be shown.

*§ 20b para. 1*

1) Assets subject to the disposing power of a criminal organization (§278a) or a terrorist group (§278b) or that have been provided or collected as means to financing of terrorism (§ 278d) shall be declared as forfeited.

*§ 20c para. 1 subpara. 1*

1. the assets concerned are subject to legal claims of persons not involved in the criminal offense, the criminal organization, or the terrorist group, or

*§ 64 para. 1 subpara. 9, 10, and 11*

Liechtenstein criminal laws shall apply to the following offenses committed abroad, independently of the criminal laws of the place where the offense was committed:

9. participation (§ 12) in a criminal offense committed by the immediate perpetrator domestically, as well as receiving stolen goods (§ 164) and money laundering (§ 165) connected to a (predicate) offense committed domestically;

10. terrorist group (§ 278b) and terrorist offenses (§ 278c), as well as offenses committed in connection therewith according to §§128 to 131, 144, and 145, as well as 223 and 224, if

a) the perpetrator was a Liechtenstein citizen at the time of the offense or the perpetrator acquired Liechtenstein citizenship later and still holds Liechtenstein citizenship as the time criminal proceedings are initiated,

b) the domicile or usual residence of the perpetrator is in Liechtenstein,

c) the offense was committed for the benefit of a legal entity domiciled in the Liechtenstein,

d) the offense was committed against the Reigning Prince, the Parliament, the Government, a Court, or any other authority or the population of the Principality of Liechtenstein,

e) the perpetrator was a foreigner at the time of the offense, is on Liechtenstein territory, and cannot be extradited;

#### FINANCING OF TERRORISM (§ 278D)

If

a) the perpetrator was a Liechtenstein citizen at the time of the offense or the perpetrator acquired Liechtenstein citizenship later and still holds Liechtenstein citizenship at the time criminal proceedings are initiated, or

b) the perpetrator was a foreigner at the time of the offense, is on Liechtenstein territory, and cannot be extradited.

#### *§165 para 1, 2 and 6*

1) A person who hides parts of assets originating from a crime, an offense according to § 278d, §§ 304 to 308, or an offense according to the Narcotics Act, or conceals their origin, in particular by providing false information in a legal context concerning the origin or the true nature of, the ownership or other rights pertaining to, the disposing power over, the transfer of, or concerning the location of such parts of assets, shall be punished with imprisonment of up to three years or a fine of up to 360 daily rates.

2) A person who appropriates or takes into safe keeping parts of assets originating from a crime, an offense according to § 278d, §§ 304 to 308, or an offense according to the Narcotics Act committed by another person, whether with the intention merely to hold them in safe keeping, to invest them, or to administer them, or who converts, makes use of, or transfers such parts of assets to a third party, shall be punished with imprisonment of up to two years or a fine of up to 360 daily rates.

6) A person who appropriates or takes into safe keeping parts of assets of a criminal organization (§ 278a) or a terrorist group (§278b) on behalf of or in the interest of such of a criminal organization or terrorist group, whether with the intention merely to hold them in safe keeping, to invest them, or to administer them, or who converts, makes use of, or transfers such parts of assets to a third party, shall be punished with imprisonment of up to three years, or, if the value of the parts of assets is greater than 75 000 Swiss francs, with imprisonment of six months to five years.

*§ 278a, para. 2*

2) A person is considered a member of a criminal organization who commits a criminal offense within the context of the criminal aim of the organization or who participates in the activities of the organization by supplying information or otherwise with knowledge of the fact that such participation will contribute to the group or its criminal activities.

*§ 278b*

**TERRORIST GROUP**

1) A person who directs a terrorist group (para. 3) shall be punished with imprisonment of five to fifteen years. A person who directs a terrorist group that limits itself to the threat of terrorist offenses (§278c, para. 1) shall be punished with imprisonment of one to ten years.

2) A person who participates in a terrorist group as a member (§ 278a, para. 2) or who supports the group financially shall be punished with imprisonment of one to ten years.

3) A terrorist group is an association of more than two persons, established over a period of time and aimed at the commission of one or more terrorist offenses (§ 278c) by one or more of its members.

*§ 278c*

**TERRORIST OFFENSES**

1) Terrorist offenses are:

1. murder (§ 75),
2. bodily injury according to §§ 84 to 87,
3. extortionary kidnapping (§ 102),
4. severe coercion (§ 106),
5. dangerous threat according to § 107, para. 2,
6. serious damage to property (§ 126) and damage to data (§ 126a), if the life or property of others could thereby be greatly endangered,
7. offenses intentionally dangerous to public safety (§§ 169, 171, 173, 175, 176, 178) or intentional endangerment through pollution of water or air (§ 180),

8. air piracy (§ 185),
9. intentional endangerment of aviation safety (§ 186), or
10. a criminal offense according to art. 20 of the Weapons Act, if the act is likely to result in serious or enduring disruption of public life or serious damage to economic activity, and if the act is committed with the intent to intimidate the population in a grave way, to compel public authorities or an international organization to do, acquiesce in, or refrain from doing any act, or to seriously shake or destroy the fundamental political, constitutional, economic, or social structures of a state or international organization.

2) A person who commits a terrorist offense within the meaning of para. 1 shall be punished in accordance with the law applicable to the listed offense, whereby the maximum sentence for the offense shall be increased by half, but up to at most twenty years.

3) The offense is not considered a terrorist offense if it is aimed at the establishment or reestablishment of democracy and the rule of law, or if it aimed at the exercise or protection of human rights.

#### *§ 278d*

#### FINANCING OF TERRORISM

1) A person who provides or collects assets with the intention that they should be used, even in part, in order to carry out:

1. air piracy (§ 185) or intentional endangerment of aviation safety (§ 186),
2. extortionary kidnapping (§ 102) or a threat thereof,
3. an attack upon the person, life, or liberty of a person protected under international law or a violent attack upon the private accommodation, official premises, or means of transport of such a person likely to endanger his or her person, life, or liberty, or a threat to commit any such attack,
4. international endangerment through nuclear energy or ionizing radiation (§ 171), the threat thereof, a criminal offense to obtain nuclear or radioactive material, or a threat to steal or rob nuclear or radioactive material, in order to compel another person to do, acquiesce in, or refrain from doing any act,
5. a significant attack against the person or life of another person at an airport serving international civil aviation, the destruction of or serious

damage to such an airport or an aircraft located at such an airport, or the disruption of the services of an airport, provided that the offense is committed using a weapon or other device and is likely to endanger safety at the airport,

6. a criminal offense committed against a vessel or fixed platform, against a person on board a vessel or fixed platform, against the cargo of a vessel or against a maritime navigational facility, in a manner described in §§ 185 or 186,

7. the delivery of an explosive or other lethal device to a place of public use, a State or public facility, a public transportation system or an infrastructure facility, or the use of such means with the purpose of causing death or serious bodily injury to another person or extensive destruction of the place, facility, or system, where such destruction is likely to result in major economic loss,

8. a criminal offense intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population or to compel a government or an international organization to do or to refrain from doing any act,

shall be punished with imprisonment of six months to five years. The punishment shall not, however, be more severe in manner or extent than the law specifies for the offense financed.

2) The perpetrator shall not be punished in accordance with para. 1 if a different provision provides for a more severe sentence.

## II. ENTRY INTO FORCE

The law enters into force on the day of its announcement.

## 2. LAW ON AMENDMENT OF THE CODE OF CRIMINAL PROCEDURE (STRAFPROZESSORDNUNG, StPO)

### AMENDMENT OF EXISTING LAW

The Code of Criminal Procedure of 18 October 1988, Liechtenstein Legal Gazette (Liechtensteinisches Landesgesetzblatt, LGBl.) 1988 No. 62, in the version of the Law of 25 October 2000, LGBl. 2000 No. 257, shall be amended as follows:

*§ 97a, para. 1 chapeau*

1) If there is a suspicion of unlawful enrichment and if forfeiture of this enrichment is expected in accordance with § 20 of the Criminal Code (Strafgesetzbuch, StGB), or if there is a suspicion that assets are subject to the disposing power of a criminal organization or terrorist group (§§ 278a and 278b StGB), that they have been provided or collected as means for financing of terrorism (§ 278d), or that they originate from a criminally punishable act, and if forfeiture of these assets is expected in accordance with § 20 StGB, then the Court shall in particular take the following measures at the request of the Office of the Public Prosecutor to secure forfeiture of the enrichment or of the assets, if it is feared that otherwise the obtainment of the forfeiture would be endangered or complicated substantially:

*§ 98a*

1) By judicial decision, and if it appears necessary for the successful investigation of money laundering within the meaning of the Criminal Code (Strafgesetzbuch, StGB), of a predicate offense for the purposes of money laundering, or of an offense in connection with organized crime, banks and financial companies are required to:

1. reveal the name and other known information regarding the identity of the owner of a business relationship, as well as the owner's address;
2. provide information whether a suspected person maintains a business relationship with this institution, whether the person is the beneficial owner of this relationship or has been duly authorized, and, if this is the case, all information necessary for the exact designation of this business relationship, as well as all documents concerning the identity of the owner of the business relationship and concerning his disposing authority;
3. to submit all legal instruments and other documents concerning the nature and scope of the business relationship and any related business operations and other transactions during a particular past or future time period.

This also applies if certain facts lead to the assumption that the business relationship was or is used for transactions concerning a pecuniary benefit that has been gained through the criminal offenses or has been received for such offenses (§ 20 StGB), that is subject to the disposing power of a criminal organization or terrorist group, or that has been provided or collected as a means for financing of terrorism (§ 20b StGB).

2) Photocopies may be submitted instead of the original documents and other records, if there is no doubt concerning their agreement. If data carriers are used, the bank or financial company shall issue or manufacture permanent reproductions that are readable without further assistance; if the business relationship is conducted using automated data processing, an electronic data carrier in a generally usable file format shall be submitted by request of the Court.

3) A decision pursuant to para. 1 shall always be delivered to the bank or financial company. The delivery to other authorized agents evident from and known through the business relationship may be postponed as long as delivery would endanger the purpose of the investigation. The bank or financial company shall be informed of such a postponement, and the bank or financial company shall temporarily keep all facts and procedures relating to the judicial order secret from clients and third parties. Under these conditions, persons employed with the bank or financial company shall also not inform the contracting party or third parties of ongoing investigations.

4) If the bank or financial company is not willing to submit particular documents or other records or particular information, §§ 96 et seq. shall apply. The prohibition of information in accordance with para. 3 shall not be affected.

#### ENTRY INTO FORCE

This Law shall enter into force simultaneously with the Law on Amendment of the Criminal Code (Strafgesetzbuch, StBG).

### 3. LAW ON AMENDMENT OF DUE DILIGENCE ACT

#### AMENDMENT OF EXISTING LAW

The Law of 22 May 1996 on Professional Due Diligence in Financial Transactions (Due Diligence Act, Sorgfaltspflichtgesetz, SPG), Liechtenstein Legal Gazette (Liechtensteinisches Landesgesetzblatt, LGB1.) 1996 No. 116, in the version of the Laws of 14 September 2000, LGB1. 2000 No. 213, and of 14 March 2002, LGB1. 2002 No. 58, shall be amended as follows:

#### *Article 1*

#### OBJECT

This Act governs the assurance of due diligence in financial transactions and serves the suppression of money laundering and organized crime within the meaning of the Criminal Code (Strafgesetzbuch, StGB, §§ 165, 278, 278a or 278b).

*Art. 20 para. 3*

3) The Office of the Public Prosecutor shall notify the Financial Intelligence Unit (FIU), as well as persons subject to this Act who have submitted notification in accordance with art. 9 para. 2, in particular of any judgment or discontinuance of proceedings pursuant to art. 15 of this Act or in connection with §§ 165, 278, 278a or 278b StGB.

ENTRY INTO FORCE

This Act shall enter into force simultaneously with the Law on Amendment of the Criminal Code (Strafgesetzbuch, StGB).

## LXIII. LITHUANIA<sup>147</sup>

### SUMMARY OF LEGISLATION OF LITHUANIA RELATED TO TERRORISM

Under the Penal Code of Lithuania conspiracy in the criminal act includes perpetrating, organizing, abetting and other accessory help in the criminal act (consulting, financing, supply of equipment, obviating obstacles). Thus, the willful provision or collection of funds with the intention that these funds should be used in order to carry out terrorist acts falls under the definition of conspiracy in connection with criminal acts provided by Article 227 “Criminal group” and Article 227 “Terrorist Act” of the Penal Code.

The criminal activities under Article 227 “Criminal group” are punishable by imprisonment from 4 years up to life imprisonment. The terrorist activities under article 227 are punishable up to life imprisonment.

The recently amended Articles 226 and 227<sup>148</sup> of the Penal Code expand the concept of a terrorist act by establishing criminal responsibility not only for planting explosives, bombing or arson but also for any other destruction or damage

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<sup>147</sup> Transmitted to the Secretariat by that Government on 28 December 2001 (S/2001/2, enclosure), 27 August 2002 (S/2002/1019, enclosure) and 19 August 2003 (S/2003/842, enclosure). Information was also provided on Resolution No. 1281 of the Government of 31 October 2001 on the measures for the implementation of UN Security Council resolutions 1333 (2000) and 1373 (2001), the National Anti-Terrorism Programme (came into force on 22 January 2002), the Law on the Prevention of Money Laundering, the Law on Refugee Status, the Law of the Legal Status of Aliens, the Code of Criminal Procedure (approved on 14 March 2002), the Law on the Control of Arms and Ammunition (entered into force on 1 July 2003).

<sup>148</sup> On 4 July 2002 the Seimas (Parliament) of Lithuania adopted Law No IX-1036 which amended Articles 226(1) and 227(3) of the Penal Code. The amendments entered into force on 19 July 2002.