

- Donne des instructions pour le commettre ou participe à sa réalisation en usant de dons, promesses, menaces, abus d'autorité ou de pouvoir, machinations ou artifices coupables;
- Procure tout moyen devant servir à l'action tel que arme, instrument ou renseignement;
- Aide ou assiste en connaissance de cause, directement ou indirectement, l'auteur ou un coauteur de l'infraction.

## XXIV. CROATIA<sup>57</sup>

### 1. SUMMARY OF LEGISLATION OF CROATIA RELATED TO TERRORISM

Croatian legislation contains provisions that criminalize support, active or passive, to entities or persons involved in terrorist acts, including the recruitment of members of terrorist groups and supply of weapons to terrorists. The main provisions are contained in the Criminal Code, the Trade Act and Government Decision on Determination on Goods Imported and Exported on the Basis of Licenses.

In its Article 169, the Criminal Code<sup>58</sup> defines the crime of international terrorism. Its basic definition is given in paragraph I:

“[W]hoever, with intent to harm a foreign state or an international organisation, causes an explosion or fire by some generally dangerous act or device, endangers people or property or kidnaps a person or commits some other act of violence shall be sentenced to a minimum three-year imprisonment”.

A qualified form of this criminal act is provided in paragraphs 2 and 3. Paragraph 2 describes a specific form of qualified murder: “[I]f the perpetrator, when carrying out a criminal act referred to in paragraph 1 of this Article, intentionally kills one or more persons, he/she shall be sentenced to a minimum ten year or long-term imprisonment.” A long-term imprisonment usually refers to a sentence of 20 to 40 years. Paragraph 3 states that “[I]f by a criminal act referred to in paragraph I of this Article the death of one or more persons or

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<sup>57</sup> Transmitted to the Secretariat by that Government on 21 December 2001 (S/2001/1271, enclosure). Information was also provided in respect of the Law on the Prevention of Money-Laundering, Law on the Office for Combating Corruption and Organised Crime, and Law on Movement and Residence of Foreigners.

<sup>58</sup> Official Gazette Nos. 110/97, 27/98, 50/00, 129/00 and 51/01.

extensive destruction is caused, the perpetrator shall be sentenced to a minimum of five year imprisonment”

In addition to the crime of international terrorism, Article 141 of the Criminal Code defines the crime of anti-state terrorism. It is described as follows:

“[W]hoever, with the aim to endanger the constitutional order or the security of the Republic of Croatia, causes an explosion, fire, or by a generally dangerous act or device imperils the lives of people, endangers property, kidnaps a person, or commits some other act of violence within the territory of the Republic of Croatia or against its citizens, thus causing a feeling of personal insecurity to citizens, shall be punished by imprisonment for no less than three years.”

In cases where the terrorist (criminal) organisation has been established, the individual can be punished for being a member in the terrorist organisation, pursuant to Article 333 of the Criminal Code, with a maximum of three years of imprisonment.

Article 333, paragraph 2 provides that “[W]hoever organises or leads a criminal organisation shall be sentenced to imprisonment of six months to five years.” paragraph 4 states that “a member of the group” referred to in paragraph 2 of this Article “shall be sentenced to imprisonment of three months to three years.”

Article 334, paragraph 1 of the Criminal Code, which deals with the assembly and supply of weapons and instruments intended for the perpetration of a criminal offence, provides for the punishment for whoever makes, supplies or enables another to obtain weapons, explosive substances or means intended for their production, or poisons which he knows to be intended for the perpetration of a criminal offence. The perpetrator shall be punished by a prison term from three months to three years.

Article 335, paragraph 1 is on illicit possession of weapons and explosive substances. It incriminates unauthorised possession of firearms and explosive substances, when a person makes, supplies, possesses or otherwise acquires for himself/herself or a third party firearms, ammunition or explosive substances whose supply, sale or possession is not permitted to citizens. The perpetrator shall be fined or imprisoned for up to three years. Paragraph 2 provides for the punishment for whoever supplies, possesses, sells, makes or exchanges, without authorisation, larger quantities of firearms, ammunition or explosive substances. The perpetrator shall be imprisoned from one to five years.

Moreover, pursuant to the Criminal Code, instigators and accomplices who instigate the perpetrators or help by commission, shall be punished. If such an organisation is organised on the territory of the Republic of Croatia, its members would also be held responsible for the criminal act defined in Article 333, i.e. for organising or heading a criminal organisation, that is being members thereof.

In the legislation of the Republic of Croatia, the criminal offence of international terrorism is ranked among the criminal offences against the values protected by international law (Chapter XIII of the Criminal Code). In accordance with Article 169, paragraph 2 of the Criminal Code, the punishment for participation in the financing, perpetration or support of terrorist acts is long-term imprisonment (maximum forty years). If the above-mentioned criminal act was attempted, an individual should be punished as a perpetrator.

#### *Financing of terrorism*

The perpetrator, i.e. an individual who collects funds with the intention that the financial means should be used in order to carry out a criminal act of international terrorism, may be punished for assisting in the execution of a criminal act of international terrorism pursuant to Article 38 of the Criminal Code. This person shall be punished as if he/she himself/herself committed the crime in question. In cases where the act was only an attempt, the punishment is at least three years of imprisonment. If at least one person was intentionally killed, the punishment could be long-term imprisonment, which is considered to be imprisonment from 20 to 40 years.

Article 279 of the Criminal Code defines a criminal act of the “Concealing Illegally Acquired Money”. It stipulates the imprisonment from six months to five years for its perpetration. If the crime defined in this Article is committed within a criminal group or organisation, a prison sentence from one to ten years is prescribed.

#### *Territorial application*

Article 14 paragraph 1 of the Criminal Code provides, among other things, that the criminal legislation of the Republic of Croatia shall apply to anyone who, outside its territory commits any criminal offence which the Republic of Croatia is obliged to prosecute according to the provisions of international law and treaties. Paragraph 4 provides that the criminal legislation of the Republic of Croatia shall be applied to a foreigner who, outside the territory of the Republic of Croatia, commits a criminal offence against a foreign state or another foreigner, for which a punishment of five years of imprisonment or a more severe penalty may be applied, provided that the perpetrator is found on the territory of the Republic of Croatia and is not extradited to a foreign state.

## 2. PROVISIONS OF THE CRIMINAL CODE

### *Article 140 (Violence Against the Highest State Officials)*

Whoever, by force or by the threat to use force, prevents the President of the Republic of Croatia, the President of the Parliament of the Republic of Croatia, the Members of the Parliament of the Republic of Croatia, the Prime Minister, Deputy Prime Minister, or a member of the Government of the Republic of

Croatia, the President or a judge of the Constitutional Court of the Republic of Croatia, the President or a judge of the Supreme Court of the Republic of Croatia, the President or members of the State Judicial Council of the Republic of Croatia, the State Attorney of the Republic of Croatia or his/her deputy, the Public Defense Attorney or his/her deputy, the Ombudsman of the Republic of Croatia or his/her deputy from acting or forces him/her to omit acting in the execution of his/her duties shall be punished by imprisonment for three to ten years.

*Article 141 (Anti-State Terrorism)*

Whoever, with an aim to endanger the constitutional order or the security of the Republic of Croatia, causes an explosion, fire, or by a generally dangerous act or device imperils the lives of people or endangers property or kidnaps a person, or commits some other act of violence within the territory of the Republic of Croatia or against its citizens, thus causing a feeling of personal insecurity in citizens, shall be punished by imprisonment for not less than three years.

*Article 142 (Armed Rebellion)*

Whoever takes part in an armed rebellion directed against the constitutional order or the security of the Republic of Croatia shall be punished by imprisonment for not less than three years.

*Article 143 (Act of Sabotage)*

Whoever, with an aim to endanger the constitutional order or the security of the Republic of Croatia, by way of demolition, fire or some other way destroys or damages an industrial, agricultural or other economic facility or a plant, a road, a means of transportation, a communication

*Article 153 (Preparation of Criminal Offenses Against the Republic of Croatia)*

Whoever procures or ensures the operation of the means, removes obstacles, makes a plan or conspires with others or undertakes other actions that create conditions for the direct perpetration of the criminal offenses referred to in Article 135, paragraphs 1 and 2, Articles 137 to 139, Articles 141 to 143, Articles 147 and 150 of this Code shall be punished by imprisonment for one to five years.

*Article 154 (Accessory After the Fact to Criminal Offenses Against the Republic of Croatia)*

(1) Whoever conceals the perpetrator of the criminal offense referred to in Article 135, paragraphs 1 and 2, Articles 137 to 139, Articles 141 to 143, Articles 148 and 150 of this Code, provides him/her with food, clothes, money or takes care of him/her in any other way so as to hinder his/her being discovered or arrested shall be punished by imprisonment for six months to three years.

(2) For the perpetration of the criminal offense referred to in paragraph 1 of this Article, the spouse of the perpetrator of a criminal offense, the person with whom the perpetrator lives out of wedlock, the perpetrator's relative by blood in a direct line, his/her brother or sister, an adopter or an adoptee and their spouse or person with whom they live out of wedlock shall not be punished.

*Article 155 (Punishment for the Most Serious Forms of Criminal Offenses Against the Republic of Croatia)*

(1) If, in the course of the perpetration of the criminal offense referred to in Article 135, paragraph 1 and 2, Articles 141 to 143, Articles 149 and 150 of this Code, the perpetrator murders one or more persons with intent, he/she shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

(2) If, by the criminal offense referred to in paragraph 1 of this Article, the death of one or more persons or extensive destruction is caused, the perpetrator shall be punished by imprisonment for not less than five years.

CHAPTER THIRTEEN (xiii)

CRIMINAL OFFENSES AGAINST VALUES PROTECTED BY INTERNATIONAL LAW

*Article 163 (Forbidden Means of Combat)*

(1) Whoever makes or improves, produces, stores, offers for sale or buys, or intermediates in a purchase or sale, possesses, transfers, or transports chemical or biological weapons, or some other means of combat prohibited by the rules of international law, shall be punished by imprisonment for three months to three years.

(2) Whoever, at a time of war or armed conflict, orders the use of chemical or biological weapons, or the means or methods of combat prohibited by the rules of international law, or whoever uses such weapons, means or methods, shall be punished by imprisonment for not less than one year.

(3) If, by the criminal offense referred to in paragraph 1 of this Article, the death of several persons is caused, the perpetrator shall be punished by imprisonment for not less than five years or by long-term imprisonment.

*Article 169 (International Terrorism)*

(1) Whoever, with intent to harm a foreign state or an international organization, causes an explosion or fire or, by some generally dangerous act or device, endangers people or property or kidnaps a person or commits some other act of violence shall be punished by imprisonment for not less than three years.

(2) If the perpetrator, in the course of the perpetration of the criminal offense referred to in paragraph 1 of this Article, intentionally murders one or more persons, he/she shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

(3) If, by the criminal offense referred to in paragraph 1 of this Article, the death of one or more persons or extensive destruction is caused, the perpetrator shall be punished by imprisonment for not less than five years.

(4) In order to initiate criminal proceedings for the criminal offense referred to in this Article, an approval from the State Attorney of the Republic of Croatia is required.

*Article 170 (Endangering the Safety of Internationally Protected Persons)*

(1) Whoever kidnaps an internationally protected person, or commits some other act of violence against such a person or attacks his/her official premises, accommodation or his/her means of transport shall be punished by imprisonment for not less than one year.

(2) If the perpetrator, in the course of the perpetration of the criminal offense referred to in paragraph 1 of this Article, intentionally murders one or more persons, he/she shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

(3) If, by the criminal offense referred to in paragraph 1 of this Article, the death of one or more persons is caused the perpetrator shall be punished by imprisonment for not less than five years.

(4) Whoever endangers the safety of an internationally protected person by a serious threat to attack him/her, members of his/her family, his/her official premises, the private accommodation or his/her means of transport shall be punished by imprisonment for one to five years.

*Article 171 (Taking of Hostages)*

(1) Whoever kidnaps, seizes or detains and threatens to kill, to injure or to continue to detain another person in order to compel a certain state or an international organisation to do or abstain from doing any act as an explicit or implicit condition for the release of a hostage shall be punished by imprisonment for not less than one year.

(2) If the perpetrator, in the course of the perpetration of the criminal offense referred to in paragraph 1 of this Article, intentionally kills a hostage, he/she shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

(3) If, by the criminal offense referred to in paragraph 1 of this Article, the death of the hostage is caused, the perpetrator shall be punished by imprisonment for not less than five years.

*Article 172 (Misuse of Nuclear Materials)*

(1) Whoever, by force, threat, the perpetration of a criminal offense or by any other way without authorization procures, possesses, uses, transports, stores, gives to another or enables another to procure nuclear materials shall be punished by imprisonment for three months to three years.

(2) Whoever, by the act referred to in paragraph 1 of this Article, endangers human lives and property to a greater extent shall be punished by imprisonment for six months to five years.

(3) The same punishment referred to in paragraph 2 of this Article shall be inflicted on whoever, by serious threat to use nuclear material, endangers the safety of people.

(4) Whoever, in order to compel some state or international organization or a natural or legal person to do or refrain from doing an act, threatens to endanger the lives of people and property to a greater extent through the use of nuclear material shall be punished by imprisonment for one to ten years.

(5) Whoever commits the criminal offense referred to in paragraph 2 of this Article by negligence shall be punished by imprisonment for three months to three years.

(6) If, by the criminal offense referred to in paragraphs 1, 2 and 4 of this Article, the death of one or more persons or extensive damage to property is caused, the perpetrator shall be punished by imprisonment for not less than three years.

(7) If, by the criminal offense referred to in paragraph 1 of this Article, the death of one or more persons is caused or extensive damage to property is caused, the perpetrator shall be punished by imprisonment for one to ten years.

*Article 179 (Hijacking an Aircraft or a Ship)*

(1) Whoever, by force or serious threat to use force, takes over the control over an aircraft in flight or over a ship or a vessel shall be punished by imprisonment for not less than one year. If the perpetrator, in the course of the perpetration of the criminal offense referred to in paragraph 1 of this Article, intentionally kills one or more persons, he/she shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

(2) If, by the criminal offense referred to in paragraph 1 of this Article, the death of one or more persons or the destruction of an aircraft, a ship or a vessel is

caused, or some other extensive pecuniary damage is caused, the perpetrator shall be punished by imprisonment for not less than five years.

*Article 180 (Piracy on the Sea and in the Air)*

(1) A crew member of a ship or an aircraft or a passenger on a ship or an aircraft which is not a public ship or aircraft who, with intent to secure for himself/herself or for another some gain or to cause some damage to another, commits at sea or in a place which is not under the rule of any state a violent act or some other type of coercion against another ship or aircraft, or persons or objects on them, shall be punished by imprisonment for not less than one year.

(2) If the perpetrator, in the course of the perpetration of the criminal offense referred to in paragraph 1 of this Article, intentionally murders one or more persons, he/she shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

(3) If, by the criminal offense referred to in paragraph 1 of this Article, the death of one or more persons or the destruction of an aircraft or a ship or some other extensive destruction is caused, the perpetrator shall be punished by imprisonment for not less than five years.

*Article 181 (Endangering the Safety of International Air Traffic and Maritime Navigation)*

(1) Whoever, without an aim to commit the hijacking of an aircraft (Article 179), destroys or damages air navigation facilities or causes some other damage to the aircraft, places or carries into the aircraft an explosive or other device or a substance capable of destroying or damaging the aircraft, gives false information regarding the flight of the aircraft, performs violence against the aircraft crew members, or some other act of violence, endangering thereby the safety of the flight, shall be punished by imprisonment for one to ten years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever, with an aim to interrupt operations at an airport and endangering the safety of air traffic, performs violence against a person employed at an international airport or seriously damages or destroys airport facilities or damages an aircraft not in use.

(3) The same punishment as referred to in paragraph I of this Article shall be inflicted on whoever, without an aim to commit the hijacking of a ship or a vessel (Article 179) or the criminal offense of piracy (Article 180), by the destruction of, or damage caused to air navigational facilities or other damage to the ship or vessel, by placing or carrying into the ship or vessel an explosive or other device or substance capable of destroying or damaging the ship or vessel, by giving false information about the voyage of the ship or the condition of the vessel, by an act of violence against the crew members of the ship or vessel, or by



another act of violence, endangers the safety of the voyage of the ship or the safety of the vessel.

(4) If, by the criminal offense referred to in paragraphs 1, 2 and 3 of this Article, the death of one or more persons or the destruction or extensive damage to an aircraft, ship or vessel is caused or any other extensive pecuniary damage is caused, the perpetrator shall be punished by imprisonment for not less than three years.

*Article 186 (Damaging the Reputation of a Foreign State and International Organization)*

(1) Whoever exposes a foreign state, its flag, coat of arms, national anthem, its Head of State or diplomatic representative to public ridicule, contempt or severe disdain shall be punished by imprisonment for three months to three years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever exposes to ridicule, contempt or severe disdain the United Nations, the International Red Cross or any other recognized international organization or its highest representatives.

(3) Criminal proceedings shall be instituted on the basis of an approval by the State Attorney of the Republic of Croatia, who may issue such an approval after obtaining consent by the state, an international organization or the person against whom the criminal offense is committed.

*Article 187 (Association for the Purpose of Committing Criminal Offenses Against the Values Protected by International Law)*

(1) Whoever organizes a group of people or in some other way joins three or more persons in common action for the purpose of committing the criminal offenses referred to in Articles 156, 158, 159 and 160 of this Code shall be punished by imprisonment for one to eight years.

(2) Whoever becomes a member of the group referred to in paragraph 1 of this Article shall be punished by imprisonment for six months to five years.

(3) The perpetrator of the criminal offense referred to in paragraph 1 of this Article who, by timely uncovering the group, prevents perpetration of the criminal offenses referred to in paragraph 1 of this Article shall be punished by imprisonment for six months to three years, but the punishment may also be remitted.

(4) The punishment shall be remitted for a member of the group who uncovers the group prior to having committed the criminal offense referred to in paragraph 1 of this Article.