

MACAO SPECIAL ADMINISTRATIVE REGION

Law No. 3/2006

Prevention and suppression of the crimes of terrorism

The Legislative Assembly decrees, pursuant to Article 71, paragraph 1, of the Basic Law of the Macao Special Administrative Region, the following with the force of law:

CHAPTER I

General provisions

Article 1

Object

The object of this law is the prevention and suppression of the criminal offences of terrorism.

Article 2

Subsidiary law

The provisions of the Criminal Code shall be subsidiarily applicable to the criminal offences provided for in this law.

Article 3

Acts committed outside the MSAR

Unless otherwise provided by an international convention applicable to the Macao Special Administrative Region, hereinafter referred to as the MSAR, or an agreement for mutual legal assistance, this law shall also be applicable to acts committed outside the MSAR:

- 1) When they constitute the criminal offences provided for in Articles 4 and 6(1), or in Articles 7 and 8, against the MSAR;
- 2) When they constitute the criminal offences provided for in Articles 5, 6(2), 7 and 8:
 - (1) Against the People's Republic of China, provided that the perpetrator is a resident of the MSAR or is found in the MSAR;

(2) Against a foreign State or an international public organization, provided that the perpetrator is found in the MSAR and may not be surrendered to another territory or State.

CHAPTER II

Criminal provisions

Article 4

Terrorist organizations

1. It is considered as a terrorist group, organization or association any association of two or more persons acting in concert to impede, alter or subvert, by means of violence, the operation of the political, economical or social system of the MSAR, to compel a public authority to do or to refrain from doing any act or to tolerate it, or to intimidate certain persons, group of persons or the population in general, through the commission of:

- 1) A criminal offence against the life, physical integrity or freedom of persons;
- 2) A criminal offence against the safety of transportation and communications, including electronic information system, telegraphic, telephonic, radio and television;
- 3) A criminal offence of intentional creation of a common danger, by means of arson, explosion, release of radioactive substances or toxic or asphyxiating gases, of flood or avalanche, collapse of construction, contamination of foodstuffs and water for human consumption or the spread of disease, plague or harmful plant or animal;
- 4) An act that destroys or renders impossible the operation of means or ways of communication, premises of public services or those used in the supply and satisfaction of vital needs of the population, or deviates them from their normal purposes, definitively or temporarily, totally or partially,;

5) Investigation or development of nuclear, biological or chemical weapons; or

6) A criminal offence involving the use of nuclear energy, firearms, chemical and biological weapons, explosive substances or devices, incendiary materials of any nature, parcels or letters containing devices or substances that are particularly dangerous;

whenever, by their nature or due to the context in which they are committed, these acts are susceptible of seriously affecting the MSAR or the population that they seek to intimidate.

2. Whoever promotes or forms a terrorist group, organization or association, or joins or supports them, inter alia by supplying information or material means, shall be punished with a penalty of 10 to 20 years of imprisonment.

3. Whoever heads or directs a terrorist group, organization or association shall be punished with a penalty of 12 to 20 years of imprisonment.

4. Whenever a terrorist group, organization or association or the persons referred in paragraphs 2 and 3 hold in their possession any one of the means indicated in subparagraph 6) of paragraph 1, the penalty shall be aggravated by one third in its minimum and maximum limits.

5. Whoever commits preparatory acts for the formation of a terrorist group, organization or association shall be punished with a penalty of 1 to 8 years of imprisonment.

6. The penalties referred to in the previous paragraphs may be specially mitigated or the act might cease to be punishable if the perpetrator impedes or makes serious efforts to impede the continued existence of the terrorist group, organization or association, or communicates its existence to the authorities in a manner which enables the authorities to avoid the commission of criminal offences.

Article 5

Other terrorist organizations

1. Associations of two or more persons, acting in concert, aiming, through the commission of the acts therein described, to offend the integrity or the independence of a State, to impede, alter or subvert, by means of violence, the operation of the political, economical or social system of a State, Region or an international public organization, to compel their respective authorities to do or to refrain from doing any act or to tolerate it, or, also, to intimidate certain persons, group of persons or the population in general, whenever these acts, by their nature or context in which they are committed, are susceptible of seriously affecting that State, Region or organization, or the population that they seek to intimidate, are regarded as groups, organizations and associations within the meaning of Article 4(1).

2. The provisions of Article 4(2) to (6) are correspondingly applicable.

Article 6

Terrorism

1. Whoever commits the acts provided for in Article 4(1), with the intention therein referred, shall be punished with a penalty of 3 to 12 years of imprisonment or with the penalty that corresponds to the committed criminal offence, aggravated by one third in its minimum and maximum limits, if the penalty for the latter is equal or higher than the former penalty.

2. Whoever commits the acts provided for in Article 4(1), with the intention referred in Article 5(1), shall incur the same penalty.

3. Whoever commits the preparatory acts of the criminal offences of terrorism provided for in the previous paragraphs shall be punished with a penalty of 1 to 5 years of imprisonment, if a heavier sentence is not applicable by virtue of another legal provision.

4. If the perpetrator voluntarily abandons his activity, removes or considerably diminishes the danger produced by it or impedes the production of the result that the law seeks to prevent, the penalty might be specially mitigated or the act might cease to be punishable.

5. If the perpetrator materially aids in the collection of evidence which is decisive for the identification or arrest of other responsible persons, the penalty might be specially mitigated.

Article 7

Financing of terrorism

Whoever renders available or collects funds with the purpose of financing, totally or partially, the commission of terrorism, shall be punished with a penalty of 1 to 8 years of imprisonment, if a heavier sentence is not applicable by virtue of another legal provision.

Article 8

Incitement to terrorism

Whoever, publicly and directly, incites the commission of terrorism or the formation of a terrorist group, organization, or association, shall be punished with a penalty of 1 to 8 years of imprisonment.

Article 9

Accessory penalties

1. Whoever is sentenced for the criminal offences provided for in Articles 4 to 8 may, considering the seriousness of the act and its projection on the civic aptitude of the perpetrator, be:

- 1) Suspended from the exercise of political rights for a period of 2 to 10 years;
- 2) Prohibited from exercising public office or functions for a period of 10 to 20 years;
- 3) Expelled from or prohibited from entering into the MSAR for a period of 5 to 10 years, when not a resident;
- 4) Subject to judicial injunction.

2. The accessory penalties may be applied cumulatively.

3. The period that the perpetrator is deprived of liberty by virtue of a coercive measure of procedural nature, penalty or security measure shall not be taken into account for the purpose of the term referred to in subparagraphs 1) and 2) of paragraph 1.

Article 10

Criminal liability of legal persons

1. Legal persons, even if irregularly formed, and the associations without legal personality shall be liable for the criminal offences provided for in Articles 4 to 8 when they are committed on their behalf or in their collective interest:

- 1) By their organs or representatives; or
- 2) By a person under the authority, when the commission of the criminal offences have been rendered possible by virtue of an intentional breach of the duties supervision and control that they are entrusted with.

2. The responsibility of the entities referred to in the previous paragraph does not exclude the individual responsibility of the respective perpetrators.

3. For the criminal offences referred to in paragraph 1, the following principle penalties shall be applicable to the entities therein referred:

- 1) Fine;
- 2) Judicial dissolution.

4. The fine penalty is fixed in days, the minimum being 100 and the maximum being 1000.

5. Each day of fine corresponds to an amount between \$100.00 (one hundred patacas) and \$20,000.00 (twenty thousand patacas).

6. If the fine is applied to an association without legal personality, its common property shall be liable, and in its absence or insufficiency, the property of each one of the associates shall be, jointly and severally, liable.

7. The penalty of judicial dissolution shall only be imposed when those who formed the entities referred to in paragraph 1 had the exclusive or predominant intention of, through those entities, committing the criminal offences therein provided for or when the repeated commission of such criminal offences demonstrates that those entities are being used, exclusively or predominantly, for that purpose, be it by their members or by whoever that exercises the respective management.

8. The following accessory penalties may be applicable to the entities referred to in paragraph 1:

- 1) Prohibition of the exercise of certain activities for a period of 1 to 10 years;
- 2) Deprivation of the right to subsidies or subventions granted by Government departments or public entities;
- 3) Closing of the establishment for a period of 1 month to 1 year;
- 4) Definite closing of the establishment;
- 5) Judicial injunction;
- 6) Publicity of the sentence, at the expenses of the sentenced legal persons, in one of the most widespread Chinese language newspapers and Portuguese language newspapers of the MSAR, as well as through a notice, written in the referred languages, for a period not less than 15 days, affixed at the place where the activity was exercised, in such a manner as to be visible to the public.

9. The accessory penalties may be applied cumulatively.

10. The termination of employment that may occur as a result of the application of the penalty of judicial dissolution or of any of the accessory penalties provided for in paragraph 8, shall be considered, for all purposes, as being wrongful dismissal in which case the employer is held liable.

CHAPTER III
Preventative provisions

Article 11
Application reference

The rules of Articles 6, 7 and 8 of Law No. 2/2006 shall be applicable with the necessary adaptations, for the purpose of prevention and suppression of the financing of terrorism.

CHAPTER IV
Final provisions

Article 12
Urgent nature

The procedures inherent to the implementation of this law, such as those regarding funds intended to be used for the commission of terrorism, shall always be deemed urgent in nature.

Article 13
Amendment to the Criminal Procedure Code

Article 1 of the Criminal Procedure Code approved by Decree-Law No. 48/96/M, of 2 September, as amended by Decree-Law No. 63/99/M, of 25 of October, and by Law No. 9/1999, is amended as follows:

“Article 1
(.....)

1.
2.

a) *Correspond to the typified acts which constitute the criminal offences provided for in Article 288 of the Criminal Code and in Articles 4, 5 and 6 of Law No. 3/2006;*

b)

c)”

Article 14

Amendment to the Criminal Code

Article 5 of the Criminal Code, approved by Decree-Law No. 58/95/M, of 14 November, as amended by Law No. 6/2001, is amended as follows:

“Article 5

(.....)

1.

a) *When they constitute the criminal offences provided for in Articles 252 to 261 and 297 to 305;*

b)

c)

(1)

(2)

(3)

d)

2.”

Article 15

Repeal

Articles 289 and 290 of the Criminal Code are repealed.

Article 16

Entry into force

This law enters into force on the day following its publication.

Approved on 30 March 2006.

The President of the Legislative Assembly, *Susana Chou*.

Signed on 1 April 2006.

To be published.

The Chief Executive, *Ho Hau Wah*.