

CHILE

Definition and Prosecution of Terrorist Acts

Act 18.314 defines terrorist acts and establishes them as serious criminal offenses that are punished on a scale proportional to their seriousness. It provides for the punishment of an attempt to commit terrorist acts, the threat of such acts, and conspiracy to commit them. The recruitment of members to terrorist organizations is punished as unlawful association. "Recruitment by its very nature, presupposes the existence of an unlawful association." The law with regard to terrorist acts precludes the possibility of release on bail as well as the possibility of any alternative sentence not involving imprisonment. The average imprisonment for unlawful terrorist association is 10 years. Sentences for terrorist homicide are imprisonment for 15 years to life. Finally, there have been convictions for the throwing and placing of bombs and explosives which are punished by imprisonment for 10 years and one day.

With regard to the supply of arms, article 294 of the Penal Code provides for the punishment of any person who has taken part in the association and in particular anyone who knowingly and voluntarily provides means and instruments for committing crimes, shelter, hiding or meeting places. Article 8 of Act No. 17.798, on Arms Control provides that "those who organize, belong to, finance or equip, or who instruct, incite or induce others to create and operate, private militias, combat groups or militarily organized parties armed with any of the items referred to in article 3 (in general, firearms and explosives), shall be liable to any of the degrees of long-term rigorous imprisonment."

Laws Pertaining To Biology

Art.90 of the Sanitary Code fixes the conditions for manufacturing, importing, selling, withholding, transporting, distributing, using and eliminating toxic and other substances that are harmful for human and animal health, security and wellbeing. Such substances can not be imported or manufactured in the country without previous authorization from the Director for General Health.

Money Laundering – Prevention and Prosecution

The Chilean Congress is in the course of debating "establishment of a Financial Analysis and Intelligence Unit aimed at preventing and halting the use of the financial system and other sectors of the economic system." The goal is that the unit will be in charge of investigating the financing of terrorist activities. The function of the Financial Intelligence Unit will be to anticipate and prevent the utilization of the financial system and other sectors of economic activity for the commission of any of the specified crimes. "It is also envisaged that the functions of the Unit will include investigation of the financing of terrorist acts and that the action contemplated to combat drug-trafficking will be extended to cover financial operations that may be carried out to finance activities of a terrorist nature."

Persons who engage in the financing of terrorist activities are currently punishable as perpetrators of, or at least accomplices in, the terrorist offense. Such conduct is only punishable if it can be linked to a terrorist offense involving a credible threat or conspiracy. Chile is in the course of submitting to Parliament a draft law incorporating into national law a special offense provision on the collection of funds for terrorism.

The Penal Code provides for the impoundment (seizure) of property linked to terrorism during the investigation and trial. The Penal Procedure Code also provides for the adoption of protective measures regarding the belongings of the accused and of third parties liable under civil law. During a criminal investigation a judge can seize (impound) the instruments, weapons or

objects of any kind that appear to have been used, or to have been intended for use in the commission of the offense, and any goods arising from the offense, whether in possession of the accused or of another person (article 114, Penal Procedure Code).

Information Sharing and Legal Cooperation

The Chilean police have permanently redirected their information efforts and search schemes, constantly monitoring groups or persons suspected of being connected with terrorist activities and performing intelligence analyses on the basis of available data and records. The Criminal Investigation Department has been reinforced, and it has established ongoing communications and coordination with the International Criminal Police Organization (INTERPOL), as well as the Drug Control and Immigration offices. A National Intelligence Agency will be created and it will have a preventive function through the establishment of an intelligence network for the prevention of terrorist acts.

The Government and the Chilean Police have coordinated a series of state actions aimed at preventing terrorist acts in its territory and offering collaboration internationally to: (a) intensify the work of the inter-agency counter-terrorism team; (b) strengthen border controls at authorized and unauthorized crossing points; (c) strengthen the security of embassies, residences, enterprises and public personalities; (d) review the policy on visa requirements and exemption; (e) implement an inter-ministerial commission to analyze threats of bioterrorism and adopt a contingency plan; (f) continue analysis at the level of members of the Intelligence Consultative Committee that is made up of civilian and military authorities; (g) participate in the Inter-American Committee against Terrorism (CICTE) created under the Organization of American States (OAS); (h) participate in the Permanent Working Group on terrorism created in the context of the meetings of the Ministers of the Interior of the Southern Cone Common Market (MERCOSUR); (i) and continue analysis of developments in the current international conflict.

Concerning the exchange of intelligence information, regular contact exists with counterparts in various countries, providing background to enrich further the existing knowledge of terrorist groups operating at the international level, especially those in the Islamic region, thus strengthening and facilitating the exchange of operational information. Finally, in the area of bioterrorism, coordination takes place with the competent agencies on the handling of unknown substances.

The rule which regulates judicial action taken in Chile at the request of a foreign court or prosecutor – including requests for the production of evidence – is article 76 of the Code of Civil Procedure. Such requests are handled as prescribed by treaties in force or, in the absence of such treaties, in conformity with the relevant general principles of international law. With regards to extrajudicial collaboration, jurisdiction and procedure are a matter for the police (internal administrative procedures), and will in the future be the responsibility of the National Intelligence Agency and the Financial Analysis and Intelligence Unit.

BIBLIOGRAPHY OF CHILEAN LEGISLATION

Definition and Prosecution of Terrorist Acts

1. Chilean Penal Code, Act 18.314 – Terrorist Acts and Attempted Terrorist Acts as Serious Criminal Offenses.
2. Chilean Penal Code, Article 294 – Providing Arms and Shelter For the Commission of Crimes.
3. Chilean Penal Code, Act No. 17.798, Article 8 –Arms Control
4. Chilean Penal Code, Act No. 18.314, paragraph V – Recruitment of Member to Terrorist Organizations.

Laws Pertaining To Biology

1. Supreme Decree No. 1876/95, 1995
2. Customs Law No. 18.164, 17 September 17 1982
3. Sanitary Code Decree Law No. 725, 11 December 1967

Money Laundering – Prevention and Prosecution

1. Chilean Penal Code, Article 15, No. 3 – Accomplices in and the Financing of Terrorist Acts.
2. Chilean Penal Code, Article 16 – Accomplices in and the Financing of Terrorist Acts.
3. Chilean Penal Code, Article 294 – Participating in an Unlawful Association.
4. Chilean Penal Procedure Code, Article 380 – Seizure of Property and Other Assets.
5. Chilean Penal Procedure Code, Article 114 – Seizure of Instruments, Weapons, or Objects Used During the Commission of an Offense.

Information Sharing

1. United Nations Convention on the Status of Refugees of 1951.
2. International Convention for the Suppression of Terrorist Bombings of 1997.
3. International Convention for the Suppression of the Financing of Terrorism of 1999.
4. Chilean Code of Civil Procedure, Article 76 – Requests For the Production of Evidence.
5. Inter-American Committee on Terrorism (CICTE), Organization of American States (OAS).