

COSTA RICA

Definition and Prosecution of Terrorist Acts

The Costa Rican Penal Code sets down the primary laws through which terrorist acts are punished. Terrorist offenses are not compiled under a specific section on terrorism, and terrorist acts are not specifically characterized in the Penal Code as independent criminal offenses. Title XI of the Penal Code, “Crimes against the security of the nation” includes the crimes of treason and aggravated treason, which involve taking up arms against the nation (Articles 275-6). Penalties are 5-10 years and 10-25 years imprisonment, respectively for these offenses. Provisions outlawing various acts associated with terrorism are scattered throughout the code:

- Article 374 defines international crime. The punishment is 10-15 years imprisonment on leaders and members of international groups whose purpose includes committing terrorist acts.
- Article 215 punishes abduction with extortion. The penalty is increased to 10-15 years when the victim is a public official or diplomat, etc. and demands made are political or social in nature (paragraph 5), or when the abduction is carried out to make demands of the Costa Rican government or that of a “friendly country” (paragraph 6). If the victim is seriously injured or dies, the penalties are increased to 15-20 years and 20-25 years respectively.
- Article 229 punishes aggravated damage, which would cover any terrorist acts that damage certain types of property. Most terrorist related acts would be punishable by 6 months to 3 years imprisonment.
- Article 246 punishes use of fire or explosions to create a threat to persons or property. The penalty varies depending on the severity of the offense.
- Articles 247 and 248 extend punishments of 246 to people who damage or disable structures buildings by other means.
- Article 250 punishes those who for criminal purpose make, supply or acquire bombs or explosive, inflammable, asphyxiating or toxic chemicals or material to make them. Or those who give instruction for their construction. The penalty is 4-8 years imprisonment. In addition, the Article punishes the possession of such goods without authorization without any criminal purpose by 2-4 years.
- Article 260 punishes the seizure or destruction of aircraft. The penalty is 5-15 years imprisonment on any person seizing a plane in flight through violence or by using threats, or who destroys an aircraft in flight or its contents by use of arms or explosives causing an explosion or fire. The penalty is increased to 15-20 years when the acts result in death or serious injury.
- Article 274 defines the offense of unlawful association, i.e. association with criminal intent. The penalty is increased to 3-10 years imprisonment if the purpose is to commit terrorist acts.

Various other articles punish endangering ships or aircraft (251) and trains (252), attacks on public safety, including power sources or telecommunications (253), and piracy (258, 259). Article 261 punishes poisoning or adulteration of water, foodstuffs, or medicine intended for public use (3-10 years), and increases the penalty if death results (8-18 years).

Costa Rica’s Arms and Explosives Act, Act No. 7530 of 10 July 1995, penalizes various offenses related to illegal possession of weapons. Articles of the Act punish the possession of prohibited weapons (88), stockpiling of weapons (90), importation and trafficking in arms, ammunitions, or explosives that are prohibited (91), smuggling of permitted weapons (92),

trading in arms without verifying a legal source (93), illegal manufacture of weapons (94), and alteration of serial numbers, etc... (98).

Costa Rica is beginning to draft a special law on terrorism. One of the main components is the establishment of a crime of the financing of terrorism. Additionally, it will establish financial controls to detect the offense, and mechanisms for freezing and seizing terrorist related assets.

Prevention of Terrorism – Security Measures

The judicial police, administrative police, municipal police, and state intelligence service not only exchange information but coordinate activities as a vital component of Costa Rica's intelligence network. In addition, the Ministry of Public Security, through the police information centre, is working to improve criminal investigation procedures and the compilation, analysis and checking of data on criminal acts, with a view to providing reliable information which will enable institutional and judicial bodies to function more effectively, focusing on aspects of interest in the implementation of policies for preventing, reducing and combating crimes and other illicit acts involving prior organization.

Laws Pertaining To Biology

Toxic or dangerous products or substances are classified and controlled by government regulations which specify obligations for labeling and for safety and health. Additional regulations define the role of various agencies; information to be provided by importers and manufacturers of toxic and dangerous substances and products (name and address of the company; name, properties and toxicity information of the substance or product; first aid and other emergency instructions); labeling requirements; requirements for importation, handling, use and storage; permits for emission; technological emergencies; and technical advisory services. These regulations also specify prohibited conduct and penalties for violations. The Regulations for the Risk-free Transport of Dangerous Goods by Air (RAC 18) establish mechanisms for the transport of goods which involve a considerable risk to health, safety or property on the part of airlines. Similarly, the Directorate of Civil Aviation must prevent accidents and investigate those that occur in connection with the transport of dangerous goods, such as explosives and radioactive substances.

Money Laundering – Prevention and Prosecution

Costa Rica's structure for supervision of financial entities and preventing crimes relating to money laundering consists of the Office of the Superintendent of Financial Institutions (SUGEF) (responsible for banking, financial intermediaries, and to some extent, the stock market), the Office of the Superintendent of Securities (SUGEVAL) (primarily responsible for the stock market), and the Office of the Superintendent of Pensions (responsible for the private pension system). Act No. 8204 regulates financial activities and establishing penalties to prevent penetration of money derived from serious crime and from all laundering activities, including terrorist related acts.

Article 16 of the Act establishes new regulations for financial entities in Costa Rica. Under the Article, financial entities must obtain and keep information on the true identity of people on whose behalf an account is opened or used, if suspicious the customer is not acting on their own behalf, especially with regard to entities that do not operate largely within the country they are based. Named accounts are required by law; no numbered or anonymous accounts are allowed. Regulated entities must also record and verify through reliable means all identity information, and keep such information for at least five years after the transaction. Any transaction over US\$10,000 must be recorded on forms designed by the relevant regulatory body. Article 21 of the Act sets out fully the scope of information required to be maintained, including full identities of

those making the transaction and the beneficiaries, as well as the source of the funds. Article 24 and 25 requires the regulated entities to monitor transactions for suspicious activity and report relevant information to the proper supervisory body.

The Penal Code sets out appropriate crimes and punishments with regard to financial transactions. Articles 45-47 of the Code set definitions of co-perpetrator, instigator, and accessory, which could all be applied to those who finance terrorism. This provides the legal basis for prosecuting and punishing such persons. Act 8204 makes further penalties for other offenses in this area within Title IV, Offences and Security Measures, articles 57-82. Under Article 69, any person who transmits assets knowing they are derived from criminal offense, or helping to conceal assets illicit origins, or conceals the true nature of rights to the ownership of assets thought to be derived from criminal activity is punishable by 8-20 years imprisonment (or 10-20 years if drug-related). Article 70 punishes any owner, director, administrator, or employee of a financial entity that has facilitated a money laundering offense through negligence of the performances of their functions by one to three years imprisonment. Although no act of “financial terrorism” per se is punishable by Costa Rican law, the offenses can be punished through the above provisions, which restrict the ability to use or launder the proceeds of crime. These provisions may be applied to terrorist acts as “serious criminal offenses”, if they meet the definition of serious offense as an offense punishable by a minimum of four years’ imprisonment or a harsher penalty.

Funds can be frozen under Act No 7786 only by order of a judge. Act No. 8204 allows financial entities to freeze funds and transfer them to the Central Bank without such stringent requirements. Assets related to serious criminal act can be frozen upon investigation by the competent authorities, institutions have an obligation to safeguard all information, documentation, security and assets that may be used in an investigation or proceeding once they are given notice that an investigation is underway. Act No. 8204 clearly outlines the procedures for freezing funds deriving from serious offenses, however it does not cover the possibility of freezing funds that may be used to finance future offenses, including acts of terrorism. Costa Rica considers the best option to deal with this problem the drafting of a special law on terrorism adopting a similar framework as Act No. 8204. The legal basis for freezing funds as a preventative measure would be lists of suspected individuals and entities drawn up by the United Nations Security Council.

Information Sharing

Costa Rica employs information from INTERPOL, and the United States Drug Enforcement Agency in their intelligence work. Intelligence services in North, Central and South America and in some countries outside the region remain in communication and regularly exchange information on subversive activities and organized crime in all its forms. Costa Rica cooperates and exchanges information with other states on four levels.

1. Through the Association of Chiefs of Police of Central America and the Caribbean (multilateral agreements on communication, exchanges of information, joint operations and training).
2. Within the intelligence community of North and Central America, Panama, Colombia, Ecuador, Venezuela, and Peru. Also bilateral agreements exist with Spain, Italy, Germany, Israel, Taiwan and Japan on information, training and joint operations.
3. Among the Directorate of Intelligence and Security, the Ministry of Public Security and the US offices of the FBI, DEA and ATF, under informal agreements on cooperation, the exchange of information and joint operations with respect to terrorism, arms trafficking and illegal migration.

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4. Between the Directorate of Intelligence and Security and the INTERPOL information network, under an official agreement concerning information and assistance in locating fugitives from justice.

In addition, Costa Rica is a party to the Inter-American Convention on the Taking of Evidence Abroad and its Additional Protocol and to the Inter-American Convention on Letters Rogatory, as well as the Inter-American Convention on Mutual Assistance in Criminal Matters. Further information sharing is completed, as permitted by articles 187 et seq. of the Code of Civil Procedure, whenever specific information relating to a particular investigation is requested by a country. The procedure and the cooperation of Costa Rica take place through the registry of the court and the Ministry of Foreign Affairs.

Costa Rica has signed six conventions on criminal or legal mutual assistance. Moreover, under the draft Law on the strengthening of legislation against terrorism, the phrase “as well as crimes related to the financing of terrorism” has been added to articles 30 and 31 of Act No. 7786, amended by Act No. 8204, concerning the cooperation that must be provided by the Costa Rican Drug Institute and by entities charged with oversight and supervision; the institutions subject to the provisions of the law; the competent authorities of other States; the investigations, trials, and procedures referring to crimes addressed by this Act; and international cooperation agreements signed by entities of the national financial system.

BIBLIOGRAPHY OF COSTA RICAN LAWS

Definition and Prosecution of Terrorist Acts

1. Costa Rican Penal Code. Articles 215, 229, 246-8, 250,-3, 258, 259, 260,-1, 274, 277, 374.
2. Arms and Explosives Act, Act No. 7530 of July 10, 1995. Articles: 88, 90, 91-4, 98.

Laws Pertaining To Biology

1. Regulation for the registration and control of toxic substances and of toxic and dangerous products, 21 March 1995
2. Regulation No. 21406-S concerning the registration and control of toxic or dangerous substances, products and objects, 17 September 1992, Modifying Decree No.16335-S of 1985.
3. Civil Aviation Act No. 5150 of May 14, 1973.
4. Regulations for the Risk-free Transport of Dangerous Goods by Air

Money Laundering – Prevention and Prosecution

1. Act No. 7786.
2. Act No. 8204 of December 17, 2001. Articles: 16, 21, 24, 25, 57-82 (specifically 69 & 70).
3. The Penal Code. Articles 45-47.

Information Sharing

1. Act No. 7786, articles 30, 31.
2. Act No. 8204
3. Code of Civil Procedure: Articles 187 et seq.