

## REPUBLIC OF KOREA

### **Provisions of the Criminal Law on Terrorism**

Terrorist acts are serious criminal offenses under the Korean Criminal Act as well as the following special laws: Punishment of Violence Act, Punishment of Specific Crimes Act, Military Criminal Act, Aviation Act, Safety of Aircraft Operation Act, Railroad Act, Toxic Chemical Control Act, Atomic Energy Act, Protection of Military Installations Act, Firearms, Knives, Explosives etc. Control Act. The Criminal Act applies to Korean citizens and residents who commit a crime outside Korean territory (the personal principle), as well as to foreigners who commit a crime against the Korean state or its people outside the territory of Korea.

Terrorism-related acts under the Criminal Act are: assault against foreign sovereigns, formation of criminal groups, obstruction of performance of official duties, destruction of public goods, setting fire to public structures, use of explosives, obstruction of train and vessel traffic, obstruction of the use of drinking water, coercion, coercion by hostage or injury by hostage and murder by hostage, crimes of violence, infliction of bodily harm, murder, false arrest and illegal confinement and other crimes. The Criminal Act makes assistance in the form of supplying weapons for any terrorist-motivated crimes an act of complicity. The Act of the Punishment of Violent Actions penalizes the formation of criminal groups, assisting, and fund-raising for such groups. The Act on the Aggravated Punishment of Specific Crimes penalizes the crime of kidnapping and inducement. The Act on the Control of Firearms, Knives, Explosives etc. criminalizes the non-licensed manufacture, sale and trade of firearms and other.

### **Prevention of Terrorism**

All Korean authorities cooperate closely and the Ministry of Foreign Affairs and Trade has appointed an Ambassador for Counter-terrorism and Afghanistan Affairs. A new Anti-Terrorism Bill establishes a permanent National Counter-Terrorism Council composed of various ministerial authorities, headed by the Prime Minister and under the control of the President. It is a consultative and coordinating body in charge of counter-terrorism based on a Presidential decree with the goal of creating a national counter-terrorism policy. Its decisions are binding on all concerned Ministries and agencies through mutual cooperation among the different authorities. The Anti-Terrorism Bill will give the Council a legislative basis and thereby more legal weight. Furthermore, a Counter-Terrorism Center will be set up to bring together mid-career level officers of the concerned authorities, as well as a Counter-Terrorism Committee in each city, provincial capital, main airport and sea port. It entails information sharing with foreign governments and international organizations. Under the law, authorities are allowed to conduct emergency wire-tapping on foreign terror suspects for up to seven days. The legislation also allows for the use of military troops for the protection of key state facilities and makes it possible to track a suspect if there is a "sufficient reason" to believe he or she is involved in terrorism.

### **Laws Pertaining To Biology**

The Republic of Korea has been responsive to the biological/chemical terrorist threat. After the 9/11 terrorist attacks, South Korea passed a broad anti-terror law that increased security measures, sought to increase coordination amongst agencies, and increased penalties for offenses involving biological materials. Those who use biological weapons will be sentenced to either a jail term exceeding five years, or life imprisonment or capital punishment. These laws give the police the ability to investigate and prosecute bio-terrorist acts on a much broader basis than before.

The oversight of biological materials is divided among many agencies. The government has made efforts to unite and facilitate the exchange of information among the various agencies by creating new oversight boards, such as the National Council Against Terror under the National

Security Council. New legislation addresses the manufacture, transportation, and use of hazardous materials. The Government upgraded anthrax to a first-class epidemic from the current third-class and also added smallpox as a first-class epidemic in an effort to address potential bio-terror threats.

### **Suppression of Terrorism Financing, Money-Laundering, and Freezing Assets**

Korea signed the International Convention for the Suppression of the Financing of Terrorism in October 2001. “Anyone who finances terrorist acts or provides physical or material support to entities or persons involved in terrorist acts can be penalized as an accomplice to terrorism under the provisions of the relevant special laws.” According to the Financial Transaction Report Act of 2001, the Korea Financial Intelligence Unit (KFIU) “exchanges and shares information on suspicious financial transactions of funds and financial assets relating to criminal activities with financial intelligence units in other states.” Financial institutions are required to report any transactions involving criminal or terrorist organizations whether or not “the proceeds resulted from criminal action” if the transactions violate the Act on the Punishment of Violent Actions.

Financial institutions are required to immediately report any reasonably suspicious transactions to the Korea Financial Intelligence Unit. The Financial Transaction Reports Act further requires that KFIU review and analyze the reported suspicious transactions and provide necessary information to law enforcement agencies. Investigations by the contacted law enforcement bodies shall follow, and if sufficient evidence is found, necessary steps to prosecute the perpetrators will be taken pursuant to the Criminal Act.

The Proceeds of Crime Act provides for freezing, confiscation, additional collection and other ways to preserve funds and financial assets linked to terrorist acts. The punishment for money laundering with a purpose of funding criminal organizations is up to five years prison or a substantial fine. Similarly, the Financial Transaction Reports Act imposes a non-penal fine on financial institutions that do not immediately report suspicious financial transactions.

### **International Cooperation**

The Republic of Korea is a party to seven of the relevant international conventions related to terrorism. Korea is preparing to accede to and ratify the remaining five treaties by enacting and amending legislation as necessary.

The Act on International Judicial Mutual Assistance in Criminal Matters provides for the exchange and sharing of information and data related to terrorism and with other countries, and for assistance and cooperation in criminal investigations and proceedings. Bilateral and multilateral agreements on mutual legal assistance in criminal matters govern, and if no such treaty applies, Korea cooperates on the basis of reciprocity. Korea exchanges intelligence information with INTERPOL and foreign intelligence agencies to prevent suspects of terrorism from entering the country and to possibly achieve their arrests.

Korea is committed to the extradition of terrorists through bilateral extradition treaties. An offense is extraditable, if both states involved criminalize and punish the act with more than one year imprisonment, which includes most acts of international terrorism. When no extradition treaty exists extradition is possible under the Extradition Act on the basis of reciprocity. Korea still maintains the political offense exception to extradition, but does not recognize terrorist acts as political offenses.

**BIBLIOGRAPHY OF KOREAN LAWS**

***Provisions of the Criminal Law on Terrorism***

1. Criminal Act, Articles 3, 4, 114
2. Act on Punishable Acts of Violence, Article 4, 5
3. Military Criminal Act
4. Aviation Act, Articles 156-158
5. Safety of Aircraft Operation Act, Articles 8-12
6. Railroad Act
7. Toxic Chemical Control Act
8. Atomic Energy Act
9. Protection of Military Installations Act
10. Anti-Terrorism Bill (2001 – to enter into force)
11. Firearms, Knives, Explosives etc. Control Act, Article 70
12. Punishment of Specific Crime Act
13. Act on the Aggravated Punishment of Specific Crimes, Article 5-2

***Laws Related to Biology and Science***

1. Counter Terrorism Legislation , 2001

***Suppression of the Financing of Terrorism and Money-Laundering, and Freezing Assets***

1. Proceeds of Crime Act (2001), Article 3
2. Anti-Terrorism Bill (planned)
1. Financial Transaction Reports Act (2001), Articles 4, 7, 17
2. Criminal Act, Articles 30-32, 48, 107, 114, 119, 136, 144, 141, 165, 186, 192, 250, 257, 260, 276, 324, 367,
3. Foreign Currency Control Act
4. Commercial Act
5. Civil Act
6. Act on the Establishment and Operation of Public Organizations

***International Cooperation***

1. Act on International Judicial Mutual Assistance in Criminal Matters (1991)
2. Criminal Extradition Act (1988), Article 4