

MEXICO

Definition and Prosecution of Terrorist Acts

Terrorism is broadly defined as “the commission by any violent means of acts which result in alarm, fear or terror among the population or among a sector of the population for the purpose of disturbing the peace, attempting to undermine State authority or bringing pressure to bear on the authorities to take a particular decision.” Penalties for such offenses are 2 to 40 years imprisonment and a fine of up to 50,000 pesos. The Mexican Penal Code also makes it a crime to fraudulently aid or abet others in committing an offence are considered to have participated in it – including the financing of terrorist activities. Individuals who manage, direct, or supervise a terrorist organization may face up to 40 years imprisonment. Anyone who has recruited members of a terrorist group to engage in a terrorist act will be tried as an accomplice to the crime by unlawful association.

For the investigation of terrorist offenses, the Federal Organized Crime Act provides for the interception of private communications, the doubling of pre-trial detention periods and the infiltration of agents into criminal groups. It also sets forth measures to protect witnesses, judges, experts, victims and other persons involved in criminal proceedings for offences related to organized crime. The Act also provides for certain benefits for any members of criminal groups who cooperate in investigations and prosecutions against other members. The Federal Agency of Investigation has increased its surveillance of alleged criminal groups, including terrorist groups, to detect members or sympathizers who may have entered the country. The Agency works in close coordination with the Mexican national office of Interpol by sharing contacts and expertise and preparing reports and thematic documents based on the results of its investigations. The information obtained by the Agency is used to identify individuals and situations which may represent security risks and to take the necessary steps through Interpol and in cooperation with agencies in other countries.

To combat the supply of biological weapons, Mexico’s Health Act imposes a penalty of one to eight years imprisonment and a fine equivalent to 100 to 2,000 days’ general minimum wage on anyone who imports, possesses, isolates, cultivates, transports, store or, in general, performs any action using pathogenic agents or their vectors without the requisite licenses. Similar penalties apply to individuals engaged in the illegal importation, possession, transportation and storage of chemical agents.

Prevention of Terrorism – Security Measures

To restrict the flow of weapons and explosives to terrorist groups, the Federal Firearms and Explosives Act regulates the sale, possession, transport, import and export of firearms and explosives in Mexican territory. This Act does not explicitly make it a crime to supply weapons to terrorists, but it does penalize the stockpiling, possession, import and export of firearms and explosives without a license or permit issued by the Ministry of Defense. The Act prohibits the illegal importation into the national territory of weapons, ammunition, cartridges, explosives and controlled substances and imposes penalties of from 3 to 30 years imprisonment. Additionally, the Federal Penal Code imposes penalties of between 3 months and 3 years imprisonment or a fine equivalent to the forfeiture of 180 to 360 days’ general minimum wage on any person who illegally carries, manufactures, imports or stockpiles instruments to be used solely for attack purposes.

The Ministry of Defense has the responsibility for implementing measures to prevent commission of terrorist acts. To achieve this goal, it has taken steps concerning, primarily,

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efforts to combat illicit arms trafficking described in section of this document titled, “Definition and Prosecution of Terrorist Acts”.

In the fight against illegal trafficking of arms and explosives, inter-agency coordination meetings are held on an ongoing basis. Participants include the Ministry of Public Safety, the Attorney General’s Office, the Centre for Investigation and National Security (CISEN), the Centre for Drug Control Planning (CENDRO), Customs Inspection Support Unit (UAIFA) and the Federal Preventive Police (PFP). This inter-agency coordination group supplies information on a weekly basis to the CENDRO database concerning the confiscation of weapons, munitions and explosives connected with drug trafficking and other offences. This enables any agency to have access to information needed to take action to curb clandestine trade, trafficking and illegal transport of weapons.

Laws Pertaining To Biology

The National Epidemiological Surveillance System works to identify the emergence of health problems in the population caused by terrorist acts committed with biological (or chemical) agents. Mexico has a registry of institutions that have biological agents that could be used in terrorist acts. Furthermore, the Federal Commission for Protection against Public Health Risks oversees the use of potentially dangerous chemicals through the supervision and monitoring of the institutions that use this type of material. In addition, the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Nutrition is planning to deploy agricultural health inspectors at 105 international points of entry, which could reinforce the gathering and exchange of information on bio-terrorism. The National Service for Agricultural and Food Health, Purity and Quality (SENASICA) is preparing a report on the international trade in organisms which are used in research on animal diseases and could pose a bio-terrorism risk, in order to help detect them during agricultural health inspections.

The Mexican government has also taken steps within its agencies to help prevent and combat biological and chemical attacks. The Ministry of Health heads a working group on the prevention of the use of chemical and biological weapons in terrorist activities. In addition, employees of federal agencies have been trained to manage potentially hazardous materials. Finally, a reliable inter-agency information system has been progressively refined to address quickly and efficiently any terrorist attacks involving the use of chemical and/or biological weapons.

Financing of Terrorism and Money-Laundering

Mexico’s financial authorities are analyzing all organizations that are suspected of being linked to the financing of terrorist organizations and activities. The financing of terrorism is not characterized as an individual offence under Mexico penal law. However, various penal characterizations and provisions may be applied in order to prosecute and punish specific types of conduct considered to constitute the financing of terrorist acts. Mexico is finishing the procedures necessary to become a party to the International Convention for the Suppression of the Financing of Terrorism. It is also studying the legislative reforms that will be required in order to make the financing of terrorism an autonomous offence. Mexico is also working actively with global initiatives, especially with the Financial Action Task Force on Money-Laundering (FATF), to implement international policies against the financing of terrorist organizations.

Financial institutions must keep records of their clients’ transactions in order to facilitate the detection of illegal activity. Moreover, a system has been implemented to identify and report any transactions whose features differ from the usual behavior of users of the financial system, are outside a client’s normal parameters with regard to a specific economic activity, or exceed certain amounts (US\$10,000) in respect of monetary instruments. Any suspicious activities are

reported to the Financial Intelligence Unit of the Ministry of Finance and Public Credit (SHCP). These systems and preventive measures enable the government officials and financial institutions to work together to combat terrorism and other illegal activity supported through the financial system. SHCP is also considering the possibility of requiring financial institutions to also report transactions that are likely to be connected with the financing of terrorist activities.

Along with penalizing any activities related to the financing of terrorism, Mexican legislation also provides for the freezing and seizure of illegally obtained funds. The Federal Organized Crime Act provides that, “where sufficient evidence exists that a person is a member of organized crime (including terrorist organizations), the Public Prosecutor’s Office, with prior legal authorization, may freeze the assets of such person, together with any assets in which he or she has an interest; those holding such assets must certify that they were lawfully acquired.”

Information Sharing – Other States

The General Customs Administration has a system in place to facilitate the sharing of information with other countries, including with the United States Customs Service. Another system that enables the General Customs Administration to exchange information with other States was established under the Multilateral Convention on Cooperation and Mutual Assistance between the National Customs Departments of Latin America, Spain and Portugal. Under the provisions of that Convention, the contracting parties’ respective customs administrations assist or cooperate with each other directly to prevent, investigate and punish customs offences.

BIBLIOGRAPHY OF MEXICAN LAWS

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1. Federal Penal Code, Article 13, 139 (On Terrorism)
2. Federal Firearms and Explosives Act, Article 84,
3. Federal Penal Code, Article 160, 162, 139
4. Health Act, Article 455
5. Federal Code of Criminal Procedure, Article 194
6. Federal Organized Crime Act, Article 2, 8

Prevention of Terrorism – Security Measures

1. Federal Penal Code, Article 164

Laws Related to Biology and Science

1. General Provisions for Transporting Types of Goods Other than Hazardous Substances, Materials and Waste, in Vehicles Used for Transferring Hazardous Materials and Waste. 25-IX-1995
2. Inter-ministerial Decree introducing the first list of highly dangerous substances, 28 March 1990

Financing of Terrorism and Money-Laundering

1. Federal Organized Crime Act, Article 29
2. Federal Penal Code, Article 40, 41,
3. Federal Code of Criminal Procedure, Article 181