

Job 21-00491 (communication from Costa Rica on implementation of Nuclear Terrorism Convention – fair copy)

Translated from Spanish

ANNEX

By means of Act No. 9088 of 19 October 2012, the Legislative Assembly approved the International Convention for the Suppression of Acts of Nuclear Terrorism, with effect from 21 November 2012. Costa Rica ratified the Convention by means of Executive Decree No. 37474 of 4 December 2012.

Prior to the country's approval and ratification of the Convention, Act No. 8719, on strengthening legislation against terrorism, was enacted on 4 March 2009. This Act, which entered into force on 16 March 2009, introduced several amendments to the Criminal Code, the most important of them relating to the matters covered under article 7, on international crimes, which states:

Irrespective of the provisions in force in the place where the offence is committed and the nationality of the perpetrator, the penalties provided for under Costa Rican law shall be imposed on any person who commits an act of piracy, an act of terrorism or the financing thereof, or an act of genocide; forges coins, negotiable instruments, banknotes or other bearer instruments; illicitly traffics in arms, ammunition, explosives or related materials; takes part in the slave trade or in trafficking in women or children; or engages in trafficking in narcotic drugs or obscene publications. Penalties shall also be imposed on any person who commits any other offence against human rights or international humanitarian law, as provided for under the treaties signed by Costa Rica or in this Code.

In addition, without introducing a definition, the Act lists offences which, in and of themselves, would be considered acts of terrorism [1] and, in relation specifically to nuclear materials, it introduces articles 246 bis and 205 ter:

Article 246 bis.– Any person who creates a public threat to persons or property through the emission, spread or impact of toxic or hazardous chemicals, agents or toxins of a biological nature or similar substances, or radiation from radioactive material shall incur the penalties provided for in article 246.

Article 250 ter – Nuclear materials: A prison term of 4 to 10 years shall be imposed on anyone who engages in any of the following acts: (1) an act without lawful authority which constitutes the receipt, introduction, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which is likely to cause death or slight, serious or severe injury to any person or substantial damage to property or the environment; (2) a theft or robbery of nuclear material; (3) fraudulent obtaining of nuclear material; (4) manufacture or possession of any explosive nuclear device or any radioactive material dispersal or radiation-emitting device which may, owing to its radiological properties, cause death, or slight, serious or severe bodily injury or substantial damage to property or to the environment; (5) use of nuclear materials or devices to cause death or serious injury to any person or substantial property damage; (6) a threat to use nuclear materials or devices to cause death or slight, serious or severe injury to a person or substantial damage to property or to commit any of the acts described in item (2) in order to compel a natural or legal person, an international organization or a State to do or refrain from doing any act; (7) use of or damage to a nuclear facility in a manner which releases or risks the release of radioactive material.

Additionally, although not as a means of implementing the International Convention for the Suppression of Acts of Nuclear Terrorism but related thereto, the country has adopted the Convention on the Physical Protection of Nuclear Material (Act No. 8265 of 15 November 2002) and the International Convention for the Suppression of Terrorist Bombings (Act No. 8080 of 14 February 2001).

Recently, in order to fulfil the country's commitments vis-à-vis the Financial Action Task Force of Latin America (GAFILAT), the Judicial Subcommittee on Organized Crime circulated for consultation a bill that would establish the offence of proliferation and financing of weapons of mass destruction, including weapons that incorporate the use of chemical, nuclear, biological, radiological or bacteriological components, which would serve to implement recommendations relating to the International Convention for the Suppression of Acts of Nuclear Terrorism.

[1] The offences covered in articles 112 (4), 215 (7) and (8), 246 bis, 250, 251, 258, 259, 260, 274 bis and 284 bis of the Criminal Code and in article 69 bis of Act No. 8204 of 26 December 2001, on comprehensive reform of the law on narcotics, psychotropic substances, drugs of unauthorized use and related activities and the amendments thereto. (c) Attacks on ships, aircraft on the ground, sea or river port or airport facilities, public transport vehicles, public buildings or buildings accessible to the public committed with the use of firearms or explosives or by causing a fire or explosion.