

Job 21-03499 (communication from Brazil regarding implementation of the International Convention for the Suppression of Acts of Nuclear Terrorism – fair copy)

*Translated from Portuguese*

The International Convention for the Suppression of Acts of Nuclear Terrorism was adopted by means of Legislative Decree No. 267 of 2009 and promulgated by Decree No. 9,967 of 8 August 2019.

As this legislation was promulgated only recently, no laws specifically applicable to its implementation have been found.

However, there are several national legal instruments that are related to requirements set out in the Convention.

- Act No. 13,260 of 16 March 2016, known as the Anti-Terrorism Act, provides that:

Article 2. Terrorism consists in engagement by one or more individuals in the acts provided for in this article for reasons of xenophobia, discrimination or prejudice based on race, colour, ethnicity or religion, when committed with the aim of causing social or generalized terror, endangering people, property, public peace or public safety.

§ 1. The following are acts of terrorism:

I. Using or threatening to use, transport, store, convey or carry explosives; toxic gases; poisons; biological, chemical or nuclear substances; or other means capable of causing damage or bringing about mass destruction;

II. (VETOED);

III. (VETOED);

IV. Sabotaging the operation or seizing, through violence, serious threat to a person or the use of cybernetic means, total or partial control, even temporarily, of means of communication or transport; ports, airports, railway or road transport stations; hospitals; health centres; schools; sports stadiums; public facilities or places in which essential public services operate; energy generation or transmission facilities; military installations; oil and gas exploration, refining or processing facilities; or banking institutions or their service networks;

V. Carrying out an attempt against the life or physical integrity of a person.

Penalty: imprisonment for 12 to 30 years, in addition to the penalties applicable to the threat or violent act.

- Act No. 9,605 of 12 February 1998, on criminal and administrative sanctions for acts and activities that are harmful to the environment, provides that:

Article 56. Producing, processing, packaging, importing, exporting, selling, supplying, transporting, storing, keeping, holding in storage or using a product or substance that is toxic, dangerous or harmful to

human health or to the environment, in contravention of the requirements established by law or in implementing regulations.

Penalty: imprisonment for 1 to 4 years and a fine.

§ 2. If the product or substance is nuclear or radioactive, the penalty shall be increased by one sixth to one third.

- Act No. 6,453 of 17 October 1977 establishes civil liability for nuclear damage and criminal liability for acts related to nuclear activities and sets out other provisions.

Article 19. In addition to the offences established in the legislation on national security and in other laws, the acts relating to exploration and use of nuclear energy described in this Chapter shall be considered offences.

Article 20. Producing, processing, supplying or using nuclear material without the necessary authorization or for purposes other than those permitted by law.

Penalty: imprisonment for 4 to 10 years.

Article 21. Allowing the person responsible for a nuclear facility to operate it without the necessary authorization.

Penalty: imprisonment for 2 to 6 years.

Article 22. Possessing, acquiring, transferring, transporting, storing or carrying nuclear material without the necessary authorization.

Penalty: imprisonment for 2 to 6 years.

Article 23. Unlawfully transmitting secret information concerning nuclear energy.

Penalty: imprisonment for 4 to 8 years.

Article 24. Unlawfully extracting, benefiting from or trading in nuclear ore.

Penalty: imprisonment for 2 to 6 years.

Article 25. Exporting or importing without the necessary licence nuclear material, nuclear ore or concentrates, ores of interest for nuclear energy, or ores or concentrates containing nuclear elements.

Penalty: imprisonment for 2 to 8 years.

Article 26. Failure to adhere to safety or security standards relating to a nuclear facility or to the use, transport, possession or storage of nuclear material, endangering the life, physical integrity or property of others.

Penalty: imprisonment for 2 to 8 years.

Article 27. Impeding or hindering the operation of a nuclear facility or the transport of nuclear material.

Penalty: imprisonment for 4 to 10 years.

- Lastly, Act No. 7,170 of 14 December 1983, known as the National Security Act, provides that:

Article 15. Sabotaging military installations, communications media, means or modes of transport, shipyards, ports, airports, factories, power plants, dams, warehouses or other similar facilities.

Penalty: imprisonment for 3 to 10 years.

§ 1. If the act results in:

- (a) serious bodily injury, the penalty shall be increased by up to one half;
- (b) damage to or destruction or neutralization of means of defence or security, or total or partial shutdown of public activities or services deemed essential for the defence, security or economy of the country, the penalty shall be increased by up to twofold;
- (c) death, the penalty shall be increased by up to threefold.

§ 2. The penalty for acts carried out in preparation for an act of sabotage shall be the penalty provided for in this article reduced by two thirds if the act does not constitute a more serious offence.