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Act of 24 June 2004 to amend and supplement the Penal Code and some other laws in connection with terrorist crimes (Crimes of Terrorism Act)

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc. etc. etc

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that it is desirable that terrorist crimes shall be described separately and that these terrorist crimes, as well as some crimes with the objective of preparing or facilitating terrorist crimes, shall carry increased sentences.

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

ARTICLE I

The Penal Code¹ shall be amended as follows:

A

Article 4 shall be amended as follows:

1. In sections 13° en 14° the following shall be inserted in front of «one of the crimes»: **a terrorist crime and/or**. Furthermore, the following words shall be deleted: 92 to 96, 108,.

2. By replacing the full stop at the end by a semicolon two sections are added, which read:

15°. in a terrorist crime, if the terrorist crime is committed with the objective of causing fear in (part of) the Dutch population, forcing a Dutch government or an institution situated in the Netherlands or organisation of the European Union, to do something, not to do something or to tolerate certain actions, or to seriously disrupt or destroy the fundamental political, constitutional, economic and social structures of the Netherlands, an institution situated in the Netherlands or an organisation of the European Union;

16°. in one of the terrorist crimes as described in Articles 225, paragraph three, 311, paragraph one, at 6°, 312, paragraph two, at 5°, as well as 317, paragraph three, in conjunction with 312, paragraph two, at 5°, if the crime is committed with the objective of preparing or facilitating a terrorist crime as described at section 15°.

B

Article 4a shall be amended as follows:

1. Reference «1.» shall be inserted in front of the text.

2. A paragraph shall be added, which reads:

2. Furthermore, anyone with regard to whom an extradition request in respect of a terrorist crime and/or one of the crimes as described in Articles 225, paragraph three, 311, paragraph one, at 6°, 312, paragraph two, at 5°, as well as 317, paragraph three in conjunction with 312, paragraph two, at 5°, has been rejected shall be subject to the Dutch criminal statutes.

C

After «concurrency of crimes» in Article 10, paragraph three, the following shall be inserted: , **terrorist crimes.**

D

After Article 82a, two Articles shall be inserted which read:

Article 83

A terrorist crime is understood to mean:

1°. any of the crimes described in Articles 92 to 96, 108, paragraph two, 115, paragraph two, 117, paragraph two, 121, 122, 157, section 3°, 161quater, section 2°, 164, paragraph two, 166, section 3°, 168, section 2°, 170, section 3°, 174, paragraph two, and 289, as well as in Article 80, paragraph two, of the Nuclear Energy Act, if the crime has been committed with a terrorist objective;

2°. any of the crimes which carry prison sentences by virtue of Articles 114a, 114b, 120a, 120b, 130a, 176a, 176b, 282c, 289a, 304a, 304b, 415a and 415b, as well as Article 80, paragraph three, of the Nuclear Energy Act;

3°. any of the crimes described in Articles 140a, 282b, 285, paragraph three, and 288a, as well as in Article 55, paragraph five of the Weapons and Ammunition Act, Article 6, paragraph four, of the Economic Offences Act, Article 33a of the Explosives for Civil Uses Act and Article 79 of the Nuclear Energy Act.

Article 83a

A terrorist objective is understood to mean the objective to cause serious fear in (part) of the population in a country and/or to unlawfully force a government or international organisation to do something, not to do something, or to tolerate certain actions and/or to seriously disrupt or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation.

E

Article 96, paragraph three, shall be deleted.

F

After Article 114, two Articles shall be inserted which read:

Article 114a

If a crime liable to punishment by virtue of Articles 108, paragraph one, 109 or 110 has been committed with a terrorist objective, the prison term stipulated in that Article shall be increased by half that term, and if the crime carries a prison sentence not exceeding fifteen years, a prison sentence of life imprisonment or a prison sentence not exceeding twenty years shall be imposed.

Article 114b

- 1. Conspiracy in respect of crimes described in Article 108, to be committed with a terrorist objective, shall be punished with a prison sentence not exceeding ten years or a category five fine**
- 2. Article 96, paragraph two, applies by analogy.**

G

After Article 120, two Articles shall be inserted which read:

Article 120a

If a crime liable to punishment by virtue of Articles 115, paragraph one, 116, 117, paragraph one, 117a or 117b has been committed with a terrorist objective, the prison term stipulated in that Article shall be increased by half that term, and if the crime carries a prison sentence not exceeding fifteen years, life imprisonment or a prison sentence not exceeding twenty years shall be imposed.

Article 120b

- 1. Conspiracy in respect of crimes described in Articles 115 and 117, to be committed with a terrorist objective, shall be punished with a prison sentence not exceeding ten years or a category five fine.**
- 2. Article 96, paragraph two, applies by analogy.**

H

In Article 122, paragraph two, the words «and third» shall be deleted.

I

After Article 130, an Article shall be inserted which reads:

Article 130a

If a crime, liable to punishment by virtue of Articles 123 or 124, has been committed with a terrorist objective, the prison term stipulated in these Articles shall be increased by half that term.

J

A paragraph shall be added to Article 140, which paragraph reads:

- 4. Participation as described in paragraph one includes rendering financial or other material support to, as well as raising funds and recruiting funds for the organisation described therein.**

K

After Article 140, an Article shall be inserted which reads:

Article 140a

1. Participating in an organisation with the objective of committing terrorist crimes shall be punished with a prison sentence not exceeding fifteen years or a category five fine.

2. Founders, leaders or managers shall be punished with life imprisonment or a prison term not exceeding twenty years or a category five fine.

3. Article 140, paragraph four, applies by analogy.

L

Article 161 shall read:

Article 161

He who deliberately destroys, sabotages or damages any dam works, drainage, gas or water pipes or sewerage shall be punished:

1° with a prison sentence not exceeding six years or a category five fine, if it involves a general threat of flooding or against goods;

2° with a prison sentence not exceeding nine years or a category five fine, if it involves mortal danger;

3° with a prison sentence not exceeding fifteen years or a category five fine, if it involves mortal danger and when the act results in the death of a person;

M

After «vessel» in Articles 168 and 169, the following shall be inserted: ,
vehicle.

N

In Articles 170 and 171 «building or wooden structure» shall be replaced by: **building, wooden structure, installation at sea or place accessible to the public.**

O

In Article 172, paragraph one, at 1° and 2°, the following shall be deleted: the guilty party is aware or has serious reason to suspect that.

P

In Article 173, paragraph one, at 1° and 2°, the following shall be deleted: the guilty party is aware or has serious reason to suspect that.

Q

Article 173a shall be amended as follows:

1. In section 1° the following shall be deleted: the guilty party is aware or has serious reasons to suspect that.

2. In section 2° the following shall be deleted: the guilty party is aware or has serious reason to suspect that.

R

In Article 173b, at 1° and 2°, the following shall be deleted: the guilty party is aware or has serious reason to suspect that.

S

After Article 176, two Articles shall be inserted which read:

Article 176a

If a crime liable to punishment by virtue of Articles 157, 159, 160, 161, 161 bis, 161quater, 161sexies, 162, 162a, 164, 166, 168, 170, 172, 173a or 174 has been committed with a terrorist objective, the prison term stipulated in that Article shall be increased by half that term, and if the crime carries a prison sentence not exceeding fifteen years, life imprisonment or a prison sentence not exceeding twenty years shall be imposed.

Article 176b

1. Conspiracy in respect of crimes described in Articles 157, 161, sections 2° and 3°, 161 bis, sections 3° and 4°, 161quater, 161 sexies, sections 3° and 4°, 162, 164, 166, 168, 170, 172, 173a and 174, to be committed with a terrorist objective, shall be punished with a prison sentence not exceeding ten years or a category five fine.

2. Article 96, paragraph two, applies by analogy.

T

In Article 205 «recruits» shall be replaced by «**or recruits armed forces**» and «one year or a fourth category fine» shall be replaced by: **four years or a fifth category fine.**

U

A paragraph shall be added to Article 225, which paragraph reads:

3. If an offence as described in paragraph one or two is committed with the objective of preparing or facilitating a terrorist crime, the prison term in connection with the offence shall be increased by one third.

V

After Article 282a, two Articles shall be inserted which read:

Article 282b

1. He who deliberately and unlawfully (continues to) deprive(s) a person of his freedom with a terrorist objective, shall be liable to a prison sentence not exceeding twenty years or a category five fine.

2. Article 282, paragraph four, applies by analogy.

Article 282c

1. Conspiracy in respect of crimes described in Article 282b, shall be punished with a prison sentence not exceeding ten years or a category five fine.

2. Article 96, paragraph two, applies by analogy.

W

A paragraph shall be added to Article 285, which paragraph reads:

3. Threatening to commit a terrorist crime shall be punished with a prison sentence not exceeding six years or a category five fine.

X

After Article 288 an Article shall be inserted which

reads: **Article 288a**

Homicide, committed with a terrorist objective, shall be punished with life imprisonment or a prison term not exceeding twenty years or a category five fine.

Y

After Article 289 an Article shall be inserted which

reads: **Article 289a**

1. Conspiracy in respect of the crime described in Article 289, to be committed with a terrorist objective, as well as the crime as described in Article 288a, shall be punished with a prison sentence not exceeding ten years or a category five fine.

2. Article 96, paragraph two, applies by analogy.

Z

After Article 304, two Articles shall be inserted which read:

Article 304a

If a crime liable to punishment by virtue of Articles 302 or 303 has been committed with a terrorist objective, the prison term stipulated in that Article shall be increased by half that term, and if the crime carries a prison sentence not exceeding fifteen years, life imprisonment or a prison sentence not exceeding twenty years shall be imposed.

Article 304b

1. Conspiracy in respect of the crime described in Article 303, to be committed with a terrorist objective, shall be punished with a prison sentence not exceeding ten years or a category five fine.

2. Article 96, paragraph two, applies by analogy.

AA

By replacing the full stop at the end by a semicolon, a section shall be added to Article 311, paragraph one, which section reads:

6°. theft with the objective of preparing or facilitating a terrorist crime.

BB

By replacing the full stop at the end by a semicolon, a section shall be added to Article 312, paragraph two, which section reads:

5°. if the offence is committed with the objective of preparing or facilitating a terrorist crime.

CC

The phrase after «vessel» in Article 385a, paragraph four, shall read: , **an installation at sea, a bus, a train or another means of public transport and/or a truck with a hazardous load.**

DD

After Article 415, two Articles shall be inserted which read:

Article 415a

If a crime liable to punishment by virtue of one of the Articles 385a to 385d has been committed with a terrorist objective, the prison term stipulated in that Article shall be increased by half that term, and if the crime carries a prison sentence not exceeding fifteen years, life imprisonment or a prison sentence not exceeding twenty years shall be imposed.

Article 415b

1. Conspiracy in respect of crimes described in Articles 385a, 385b and 385d, to be committed with a terrorist objective, shall be punished with a prison sentence not exceeding ten years or a category five fine.

2. Article 96, paragraph two, applies by analogy.

ARTICLE II

A paragraph shall be added to Article 55 of the Weapons and Ammunition Act², which paragraph reads:

5. He who acts in violation of Articles 9, paragraph one, 13, paragraph one, 26, paragraph one, or 31, paragraph one, shall also be punished with a prison sentence not exceeding eight years or a category five fine, if the offence has been committed with a terrorist objective as referred to in Article 83a of the Penal Code and/or with the objective of preparing or facilitating a terrorist crime as referred to in Article 83 of that Code.

ARTICLE III

A chapter shall be inserted in the Explosives for Civil Uses Act³ after chapter V, which chapter reads:

CHAPTER VA. TERRORIST CRIME

Article 33a

1. Manufacturing, storing, using, transferring, acquiring, making available, possessing or dealing in explosives or other explosive substances with a terrorist objective as referred to in Article 83a of the Penal Code and/or to prepare or facilitate a terrorist crime as referred to in that Code, shall be punished with a prison sentence not exceeding eight years or a category five fine.

2. The offence punishable by virtue of paragraph one is a crime.

ARTICLE IV

The Nuclear Energy Act⁴ shall be amended as follows:

A

In chapter 10, an Article shall be inserted in front of Article 80,

which Article reads:

Article 79

Those who:

a. transport, possess, apply, move or have moved within or outside Dutch territory, make available and/or provide or dispose of fissile materials or ores,

b. establish, activate, keep operative or alter a structure in which nuclear energy can be released, fissile materials produced, processed or treated and/or stored,

c. activate, keep operative or alter a machine suitable for propelling a vessel or other vehicle by means of nuclear energy, install it therein or keep it and/or comparable machinery installed therein,

d. prepare, transport, possess, apply, move or have moved within or outside Dutch territory, make available and/or provide or dispose of radioactive materials,

e. manufacture, transport, possess, apply, move or have moved within or outside Dutch territory, make available and/or provide or dispose of devices emitting ionizing devices,
with a terrorist objective as referred to in Article 83a of the Penal Code and/or with the objective of preparing or facilitating a terrorist crime as referred in that Code, shall be punished with a prison sentence not exceeding fifteen years or a category five fine.

B

A paragraph shall be added to Article 80, which paragraph reads:

3. Conspiracy in respect of the crimes described in paragraphs two and three, to be committed with a terrorist objective as referred to in Article 83a of the Penal Code, shall be punished with a prison sentence not exceeding ten years or a category five fine. Article 96, paragraph two, of the Penal Code applies by analogy.

C

In Article 81 «Article 80» shall be replaced by: **Articles 79 and 80.**

ARTICLE V

A paragraph shall be added to Article 6 of the Economic Offences Act⁵, which paragraph reads:

4. In derogation of the provisions in paragraph one, he who violates a regulation stipulated by (virtue of) Articles 2 and 3, paragraph one, of the Chemical Weapons Convention Act, and/or Articles 2, paragraphs one and three, 3 and 4 of the Biological Weapons Convention Act, shall be punished with a prison sentence not exceeding eight years or a category five fine, if the offence has been committed deliberately and with a terrorist objective as referred to in Article 83a of the Penal Code, and/or with the objective of preparing or facilitating a terrorist crime as referred to in Article 83 of that Code.

ARTICLE VI

If the legislative proposal, submitted by Royal Message of 18 May 2001, to amend the Penal Code, the Code of Criminal Procedure and the Municipalities Act (partial amendment to the decency laws) (27 745)⁶ turns into law and if that act takes or has taken effect, the following shall be inserted in Article 5a, paragraph one, of the Penal Code after «minor»: **a terrorist crime and/or one of the crimes described in Articles 225, paragraph three, 311, paragraph one, at 6°, 312, paragraph two, at 5°, as well as 317, paragraph, three in conjunction with 312, paragraph two, at 5°.**

For the debate in the States-General see:
Parliamentary Papers II 2001/2002, 2002/2003, 2003/2004, 28 463.
Debates II 2003/2004, p. 2189-2224; 2333-2362; 2388-2389.
Parliamentary Papers I 2003/2004, 28 463 (A, B, C, D, E, F).
Debates I 2003/2004, see meetings of 14, 15 and 22 June 2004.

¹ Most recently amended by Act of Parliament of 13 May 2004, Bulletin of Acts and Decrees 215.

² Bulletin of Acts and Decrees 1997, 292, most recently amended by Act of Parliament of 5 February 2004, Bulletin of Acts and Decrees 50.

³ Bulletin of Acts and Decrees 1994, 552, most recently amended by Act of Parliament of 22 October 2003, Bulletin of Acts and Decrees 449.

⁴ Bulletin of Acts and Decrees 1992, 623, most recently amended by Act of Parliament of 13 May 2004, Bulletin of Acts and Decrees 215.

⁵ Bulletin of Acts and Decrees 1950, K258, most recently amended by Act of Parliament of 13 May 2004, Bulletin of Acts and Decrees 215.

⁶ Bulletin of Acts and Decrees 2002, 388.

ARTICLE VII

This act shall enter into force on a date to be determined by Royal Decree.

ARTICLE VIII

This act shall be cited as: Crimes of Terrorism Act.

We order and command that this Act shall be published in the Bulletin of Acts and Decrees, and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at The Hague, 24 June 2004

Beatrix

The Minister of Justice,
J. P. H. Donner

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The Minister of Justice,
J. P. H. Donner