



# WORLD LAW BULLETIN

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Highlights of this month's issue:

*Terrorism: Foreign Legal Responses*

(ABSTRACTS ATTACHED; CALL 7-LAWS FOR FULL REPORTS)

Interim Counterterrorism Measure-Canada

Democratic Charter-OAS

Stem Cell Research-Australia

PLUS: UPDATE FROM THE EUROPEAN UNION

New Foreign Law Brief: The New Russian Code of Criminal Procedure

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***The WORLD LAW***

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**SOUTH PACIFIC**

Australia-Regulation of embryonic stem cell research

-Six new laws to handle boat people

**INT'L LAW & ORGANIZATIONS**

Angola/Japan-Cooperative agreements

Organization of American States-Democratic Charter

United/States of America/Venezuela-Ties broken

**PLUS:** Law Library product listings

& European Union Developments--update

**SPECIAL ATTACHMENT:**

**Terrorism: Foreign Legal Responses**

**Table of Contents**

**AMERICAS**

Brazil-Bill threatens the Amazon

Canada-Interim counterterrorism measure

Mexico-Rape clause dropped

**ASIA**

China-Decision in HIV suit

-Household registration

Taiwan-Cell phones & seat belts

-Government streamlining

**EUROPE**

Romania-New investment incentives regulations

Slovak Republic-Advertising

Ukraine-Election law

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## **AMERICAS**

### **BRAZIL--Bill Threatens the Amazon**

A joint commission of the Brazilian Congress has approved a bill that would more than double the area of the Amazon rainforest that farmers, ranchers, loggers, and miners would be permitted to raze. Sponsored by a caucus of legislators from rural regions, the proposed law would dilute many restrictions on Amazon land use and eliminate other safeguards altogether. Even though the bill must be approved by both houses of Congress to become law, environmentalists are fearful it will pass and have begun a national campaign to defeat it. (*New York Times*, Sept. 23, 2001, at A5). According to Minister of the Environment Jose Sarney Filho, the future of the world's largest tropical rainforest is in danger. Existing laws permit farmers to exploit 20% of the rainforest. Under the new law, the percentage would rise to 50 to 80% of the Amazon region. The Minister said that if the law is approved, the Amazon would be reduced by 3 million square kilometers, and emissions of carbon dioxide would skyrocket. Approximately half of the tropical rainforest is owned by large and small private landowners.

Groups of environmentalists demonstrated in front of the Congress Building in Brasilia on September 4, 2001, but landowners have support from several political parties who believe that prohibiting the advance of agriculture and ranching in the Amazon is limiting progress. (*BBCMundo*, Sept. 4, 2001, via [http://news.bbc.co.uk/hi/spanish/newsid\\_1525000/1525965.stm](http://news.bbc.co.uk/hi/spanish/newsid_1525000/1525965.stm)) (Sandra Sawicki, 7-9819)

### **CANADA--Interim Counterterrorism Measure**

The Canadian Government has enacted a United Nations motion for the suppression of terrorism by making it a crime to raise money for or have business dealings with 22 listed organizations and individuals suspected of being engaged in terrorism. The measure, which provides for imprisonment for up to 5 years, was adopted pursuant to powers conferred on the

Government by the United Nations Act and thus did not have to be approved by Parliament (R.S.C. ch.U-2 (1985)).

Canada's enactment of the United Nations motion for the suppression of terrorism is viewed as an interim measure. The Government has announced that it will unveil a number of proposed changes to extant legislation and pending bills by October 15, 2001. Fundraising for individuals or organizations engaged in terrorism will likely be added as a new offense under the Criminal Code that is punishable with between 10 and 14 years of imprisonment. Other measures that Government officials expect the proposed package of amendments to contain would provide for the revocation of the tax-exempt status of organizations that raise funds for organizations engaged in terrorism, stronger laws to combat organized crime, and new rules that would make it harder for persons who have sought refugee status to appeal negative decisions. Canada is also considering ways to enforce deportation orders in a manner that would not contravene the provisions of the Canadian Charter of Rights and Freedoms. Several liberal interpretations of that document by the Supreme Court of Canada have made the process of deporting persons deemed to be undesirable even more difficult than it previously was. Constitutional scholars believe that the Supreme Court is likely to look more favorably on measures designed to combat international terrorism in light of the attacks on the World Trade Center and the Pentagon. ("Terrorist Fundraisers Will Face Jail," *Globe and Mail*, Oct. 3, 2001, at A1.) (Stephen Clarke, 7-7121)

### **MEXICO--Rape Clause Dropped**

On September 18, 2001, the Chihuahua State legislature, under pressure from women's groups, reversed itself and repealed a clause of the state Penal Code it approved in August that cut the minimum rape sentence from four years to one year if the offender could prove that the victim provoked the attack. The lawmakers voted unanimously to do away with the

provision after a national campaign conducted by a coalition that emerged after a series of murders in the border city of Ciudad Juarez in which the victims were also raped. The women's groups appealed to Mexico's national Congress, which announced it would intervene if the state legislature refused to modify the Penal Code. The state lawmakers had said the provocation clause was designed to prevent women from falsely accusing boyfriends in order to avoid telling parents that they engaged in sexual relations. (*Los Angeles Times*, Sept. 19, 2001, <http://www.latimes.com/news/nationworld/world/la-000075247sep19.story?coll=la%Dheadlines%2Dworld>)

(Sandra Sawicki, 7-9819)

## ASIA

### CHINA–Decision in HIV Suit

The Wuxian People's Court in Jiangsu Province, on China's east coast, has found the Nanzhang County Hospital of Hubei Province in central China guilty of not screening blood given to a woman in a transfusion in 1998. The woman subsequently died of AIDS and passed the HIV virus on to her husband and daughter. The court has ordered the hospital to pay a monthly allowance to the family of 80,000 *yuan* (about US\$9,700) for the life of the two infected people or until there is a cure. Estimates are that this could amount to over US\$1 million. It is not clear whether the hospital has the resources to pay what is considered a very large award or whether there will be an appeal. (*China News Digest/Global*, Sept. 13, 2001, via e-mail listserv.) Similar lawsuits have been filed in other jurisdictions in China (see WLB2000.01).

In a related issue, estimates are that tens of thousands of Chinese citizens may have become infected with HIV as a result of improper medical procedures being used in connection with the selling of blood. (*Id.*)

(Constance A. Johnson, 7-9829)

### CHINA–Household Registration

As of October 1, 2001, persons who are not natives of the cities and towns where they work and live may apply for permanent residence there if they have a legal, fixed dwelling place and a stable occupation and source of income. The reform applies to county-level cities and administrative towns.

The current household registration system, instituted in 1958, restricts the freedom to migrate and divides China into two distinct urban and rural worlds. Under it, urban residents are confined to cities and towns, where they enjoy housing, medical, education, and employment benefits; farmers are confined to rural areas. Even if they live and work in urban areas, the rural residents do not enjoy the urban benefits. This has hindered urbanization and hampered regional economic integration.

Despite the restrictions, over the years various cities have adopted measures such as special residence permits to encourage farmers to reside in small cities and towns. Under regulations in Shanghai, Shenzhen, and Zhuhai, persons who have bought local commercial property can apply for permanent residence status. Beijing has done away with the permanent residency requirement for high-level talent. The city permits technicians with senior professional titles to freely move into the capital, in order to attract talent from other provinces and overseas. (*Xinhua*, Aug. 27, 2001, via FBIS; *China Daily* (Internet version), Sept. 3, 2001, via FBIS.)

(W. Zeldin, 7-9832)

### TAIWAN–Cell Phones & Seat Belts

As of September 1, 2001, two new traffic safety regulations, prohibiting the use of cell phones in cars and on motorcycles while the vehicles are in motion and requiring drivers and front-seat passengers to wear seat belts, went into effect in Taiwan. If automobile drivers are caught using hand-held cellular phones while

driving, they will be fined NT\$3,000 (about US\$91); motorcycle drivers will face an NT\$1,000 fine. Drivers or front seat passengers caught not wearing a seat belt when their vehicle is moving face a fine of NT\$1,500. (Taipei *Central News Agency*, Aug. 30, 2001, via FBIS.) (W. Zeldin, 7-9832)

### **TAIWAN--Government Streamlining**

On September 10, 2001, the Cabinet announced a proposal to restructure the existing Cabinet offices in the next two years. The proposal was developed by the Research, Development, and Evaluation Commission, a Cabinet-level office whose chair will be establishing a government reform committee in October. The changes would be implemented through an amendment to the Executive Yuan [Cabinet] Organization Law and would have to be approved by the new legislature to be elected this December.

The proposal would reduce the 36 current offices to 25: 20 ministries, four special agencies, and a new Police Administration. The four special agencies would be the Central Bank of China, the National Palace Museum, the Banking Examination Commission, and a new agency to be composed of the existing Consumer Protection Commission and the Fair Trade Commission. The current National Police Administration, the Fire Administration, and the Coast Guard Administration would jointly become the new Police Administration. The streamlined government would most likely require fewer government employees; a plan to encourage early retirements will be developed to accomplish the reduction in staff. (*The China Post*, Sept. 11, 2001, via FBIS.) (Constance A. Johnson, 7-9829)

### **EUROPE**

#### **ROMANIA--New Investment Incentives Regulations**

The Law on Promoting Direct Investments with Significant Impact on the Economy, which entered

into force in July 2001, offers incentives to those making new direct investments in Romania worth over US\$1 million. The Law covers most cash investments, with exceptions in the areas of finance, banking, insurance, and re-insurance. It offers direct investors a range of benefits, such as exemption from customs duties, delayed payment of VAT, the possibility of deducting 20% of the investment's value, and accelerated depreciation. These incentives are subject to a number of contingencies. Supplementary incentives will be offered to companies investing over US\$10 million in important sectors such as the wood industry or in the infrastructure. (*Monitorul Oficial Al Romaniei* [Romanian official gazette], Issue 12, No. 98, art. 9, Aug. 6, 2001.) (Peter Roudik, 7-9861)

#### **SLOVAK REPUBLIC--Advertising**

Law No. 147 of April 5, 2001, on Advertising sets the fundamental rules of advertising and aims to protect the interests of providers and consumers. Advertising must comply with the mandates of open competition and good taste. It cannot abuse consumer confidence, offend nationality or religion, or discriminate on the basis of sex, race, or social origin. It may not represent products as promoting health unless they are scientifically proven to do so, nor promote the sale of unsuitable items to minors or encourage them to request their parents to purchase the advertised goods. Advertising may not be carried out by telephone, fax, or other electronic means without the consent of the recipient. Comparative advertising must be truthful and based on irrefutable facts; deceptive advertising is prohibited.

The advertising of alcoholic beverages may not target minors. The Law prohibits all advertising of tobacco and tobacco products, weapons and ammunition, and medications that are prescribed or paid for by health insurance. Information on a medication must include disclosure of its composition, directions for use,

and a list of possible side-effects. Non-prescription medications may not suggest that taking them will make medical treatment unnecessary, that they are as good or better than other medications, that there are no side effects, or that a person's health will suffer if he does not use the product.

The relevant government supervisory office may prohibit advertising that violates provisions of the Law and impose fines that range in amount from 100 thousand to 5 million crowns (US\$1 equals about 48 crowns), depending on the subject matter. (George E. Glos, 7-9849)

#### **UKRAINE--Election Law**

On September 13, 2001, the Verkhovna Rada (Parliament) passed a new election law in order to comply with the Constitutional Court's decision that the law on which the 1998 parliamentary elections had been based was unconstitutional. Deciding to let that election stand, the Court required that a new law be in place before the onset of the campaign period for the March 30, 2002, elections. A protracted struggle between the Rada Members and President Kuchma, however, resulted in the Parliament's abandoning its bill, in which all the Members would have been elected by the percentage of the popular vote their parties took, in favor of the bill backed by the President.

The new law incorporates certain Court-mandated changes but keeps the basic mixed election system in place, i.e., 50% of the seats (225 Members) will be given to the political parties that attained at least 4% of the votes in the elections, while the other half of the Rada will be elected by majority vote in the electoral districts. President Kuchma maintains that the Rada-favored bill was not suited to Ukraine because the country's political party system is still not well developed and the "strictly proportional system would lead to an even more clan-dominated Parliament." (Roman Woronowycz, *Ukrainian Weekly Kyiv Press Bureau*, Sept. 16, 2001). (Natalie Gawdiak, 7-9838)

## **SOUTH PACIFIC**

### **AUSTRALIA--Regulation of Embryonic Stem Cell Research**

A Parliamentary Committee charged with proposing national guidelines on cloning and drafting federal legislation to replace inconsistent and incomplete state laws has issued a report generally approving research on human embryonic stem cells for therapeutic purposes, with the research to be closely regulated by a new national licensing body. It is expected to take about a year to draft and pass new legislation on cloning and stem cell research. (*The Australian*, Sept. 21, 2001, at <http://www.theaustralian.com.au>)

(D. DeGlopper, 7-9831)

### **AUSTRALIA--Six New Laws to Handle Boat People**

On September 26, 2001, Australia's Parliament passed six bills that, as a package, will permit the interception of ships bearing asylum-seekers, the transportation of their passengers to places outside the Australian "migration zone," and the denial of rights to appeal decisions of refugee tribunals through the courts. Refugees who are permitted to stay in Australia will not be eligible for permanent residency, but will receive three-year visas. ("Asylum Seeker Crackdown Agreed" *Australian Associated Press (AAP)*, Sept. 26, 2001, via <http://www.news.com.au/>)

(D. DeGlopper, 7-9831)

## **INTERNATIONAL LAW & ORGANIZATIONS**

### **ANGOLA/JAPAN--Cooperative Agreements**

On August 29, 2001, the Angolan government signed two pacts with Japan in the educational and telecommunications fields. The first, consisting of a protocol under which the Japanese will provide about US\$7.5 million, calls

for the construction of three primary schools and the rehabilitation of another ten schools. The work will begin in March 2002. (*Angola News Index*, Aug. 30, 2001, <http://www.angola.org/news/NewsDetail.cfm?NID=4970>). The second agreement will fund the second phase of a project to rehabilitate the telephone network in the capital city of Luanda and will cost an estimated US\$7 million. After signing this agreement, the Japanese ambassador, Yukio Sugano, expressed his wish for further bilateral treaties with the Angolan government. (*Id.*, Aug. 30, 2001, <http://www.angola.org/news/NewsDetail.cfm?NID=4971>)

(Sandra Sawicki, 7-9819)

#### **ORGANIZATION OF AMERICAN STATES -- Democratic Charter**

On September 11, 2001, the foreign ministers of the nations of the Americas adopted by acclamation the Inter-American Democratic Charter, a new tool to strengthen Organization of American States mechanisms to promote democracy while defending it against threats.

The principle of democracy and its relationship to human rights, overall development, and the fight against poverty are the dominant themes of the five-chapter charter. Its clauses include a provision stating that any unconstitutional modification or disruption of democratic order in an OAS member state “constitutes an insurmountable obstacle” to participation of that state’s government in the various forums of the OAS. If such a situation occurs, the General Assembly is empowered to “take a decision to suspend the offending member state from the exercise of its right to participate in the OAS, by an affirmative vote of two-thirds of the member states.” (*Organization of American States*, Sept. 11, 2001, <http://www.oas.org>)  
(Sandra Sawicki, 7-9819)

#### **UNITED STATES OF AMERICA/VENEZUELA–Military Ties Ended**

During the first week of September 2001, the Venezuelan government announced that it will not renew a military cooperation agreement with the United States that was forged in 1951 and that is now

considered anachronistic. The announcement was made by Venezuela’s Defense Minister Jose Vicente Rangel after a meeting with U.S. Ambassador Donna Hrinak.

The breaking of the pact means that the United States military mission that for decades had been headquartered in the Venezuelan Ministry of Defense and in Navy and Air Force installations will have to find a new location to operate. Analysts say the announcement is a clear indication that the government of President Hugo Chavez is no longer interested in maintaining the kind of close relationship with the U.S. military that had been traditional with former Venezuelan administrations. (*BBCMundo*, Sept. 5, 2001, [http://news.bbc.co.uk/hi/spanish/latin\\_america/newsid\\_1527000/1527837.stm](http://news.bbc.co.uk/hi/spanish/latin_america/newsid_1527000/1527837.stm))  
(Sandra Sawicki, 7-9819)

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#### **FOREIGN LAW BRIEFS**

*The New Russian Code of Criminal Procedure,*

by Peter Roudik, September 1001. Order No. LL-FLB 2001.03

*Japan: Recent Legal Developments in Health Care*

by Sayuri Umeda, July 2001. Order No. LL-FLB 2001.02

*Capital Punishment in Foreign and International Law*

by Constance A. Johnson, June 2001. Order No. LL-FLB 2001.01

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## **RECENT DEVELOPMENTS IN THE EUROPEAN UNION**

by Theresa Papademetriou, Senior Legal Specialist, Western Law Division\*

### **Joint EU-US Ministerial Statement on Combating Terrorism<sup>1</sup>**

On September 20, 2001, the European Union and the United States pledged cooperation in the following areas in order to avert future terrorist acts: aviation and other transport security; police and judicial cooperation, including extradition; denial of financing of terrorism, including financial sanctions; denial of other means of support to terrorists; export control and nonproliferation; border controls, including visa and document security issues; and law enforcement access to information and exchange of electronic data.

### **New Legislative Measures on Terrorism and Extradition<sup>2</sup>**

The European Commission adopted two Council Framework Decisions, on Combating Terrorism and on European Arrest Warrant and Surrender Procedures Between the Member States. The first provides a common definition of terrorism and lists a number of offenses that must be punished as terrorist offenses by Member States if they fall within the definition of terrorism. Member States must also adopt the penalties, which range from twenty years for murder to two years for extortion, robbery, and theft. The second Decision introduces a European arrest warrant for search, arrest, detention, and surrender to the judicial authority of the issuing country. The objective is to facilitate the transfer of a person in a criminal investigations from one Member State to another. Upon implementation by Member States, it will basically replace existing extradition procedures used among them.

### **Air Transport Measures and Terrorism<sup>3</sup>**

The Extraordinary European Council suggested that tougher security measures be adopted by the Transport council in order to improve safety at airports across Europe. The recommendations include classification of weapons, technical training for crew, checking and monitoring of carry-on luggage, protection of cockpit access, and quality control of security measures.

### **Green Paper on Compensation for Victims of Crime<sup>4</sup>**

The European Commission prepared a Green Paper on compensation for victims of crime designed to initiate a public consultation process. The Paper addresses questions such as compensation for physical and mental suffering, cross-border cases, levels of State compensation, and criteria for awarding compensation.

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<sup>1</sup> [Http://ue.eu.int/newsroom/](http://ue.eu.int/newsroom/)

<sup>2</sup> COM(2001) 521 final, 9/19/21 and COM(2001) 522 final, 9/19/01.

<sup>3</sup> [Http://europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettx=gt&doc=IP/01/1306/0/RAPID7lg=EN](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettx=gt&doc=IP/01/1306/0/RAPID7lg=EN)

<sup>4</sup> [Http://europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettx=gt&doc=IP/01/1336/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettx=gt&doc=IP/01/1336/0/RAPID&lg=EN)

### **Mutual Recognition of Judgments on Parental Responsibilities Among Member States<sup>5</sup>**

The European Commission adopted a proposal for a Regulation on mutual recognition of judgments on parental responsibility among the Member States. The proposal establishes rules to determine the court having jurisdiction in child custody cases, mandates the recognition and enforcement of a judgment on child custody issued in one country throughout the Community, and reinforces cooperation between courts and government authorities.

### **EU-China Maritime Agreement<sup>6</sup>**

A maritime agreement on services and free access to cargoes is being negotiated between the EU and China. The proposed agreement will cover issues such as freedom to supply services, formal recognition of the right of establishment for EU maritime companies in China, national treatment for EU vessels anchoring in ports in China, free transfer of payments and capital, and maritime cooperation.

### **Common Definition of Asylum and Common Standards on Refugee Rights<sup>7</sup>**

The Commission approved a proposal for a Directive in order to provide a common definition of “refugee” and common standards on refugee rights. The proposed Directive tackles the issue of the “agent of persecution” and expands its definition to include not only State persecution, but also persecution by non-State agents. It also states that if the applicant’s country of origin is safe, then the applicant has no right to international protection.

### **Communication on Cinema and Audiovisual Industry in Europe<sup>8</sup>**

The Communication addresses a number of issues involving audiovisual works, such as the existing obstacles to the circulation of audiovisual works based on different ratings applied in the Member States, the possibility of applying a reduced or zero rate of VAT to cultural products and services, and State aid in the film industry sector. Because of the cultural and financial advantages of electronic cinema, the Commission intends to develop standards for its use.

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<sup>5</sup> [Http://europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettxt=gt&doc=IP/01/1243/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/01/1243/0/RAPID&lg=EN)

<sup>6</sup> [Http://europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettxt=gt&doc=IP/01/1254/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/01/1254/0/RAPID&lg=EN)

<sup>7</sup> [Http://europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettxt=gt&doc=IP/01/1262/0/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/01/1262/0/RAPID&lg=EN)

<sup>8</sup> [Http://europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettxt=gt&doc=IP/01/1326/RAPID&lg=EN](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/01/1326/RAPID&lg=EN)

## **TERRORISM: FOREIGN LEGAL RESPONSES**

### *ABSTRACTS*

#### Afghanistan

The Criminal Code of Afghanistan of 1976, the application of which is uncertain at this time, contains no provision on "terrorism." Instead, the Code has used the common legal terms, such as murder, attempt or threat against the life of persons, arson, destruction of public buildings, destruction of oil and gas reservoirs or other explosive materials, power-generating stations, etc. Generally, the Criminal Code of Afghanistan covered almost all the existing crimes of the time without the need for an independent category of crimes to cover acts of terrorism. The Criminal Code also applies to crimes committed abroad against the internal or external security of Afghanistan. Extradition of criminals is dealt with in the Constitution of October 1987, which states that no citizen of Afghanistan may be extradited.

#### Arab States

Terrorist acts in the Arab states were traditionally viewed as criminal acts under the Penal Codes. In the 1980s, the resort by extremist Muslim groups to violence in their attempt to destabilize existing secular regimes brought about more rigorous police action, states of emergency, and the use of state security courts, rather than new legislative responses. By 1998, however, the Arab states banded together to conclude the Anti-Terrorism Pact to fend off the threat of terrorism which had become common to all of them.

#### Argentina

After the terrorist attacks in Buenos Aires on the Israeli Embassy in 1992 and on the "Amia" (Jewish Civil Center) in 1994, in which 85 people were killed and a large number were seriously injured, Argentina passed new legislation on terrorism. However, seven years later, on September 24, 2001, an Argentine court had only begun the prosecution of the domestic connection to the Amia attack. Requests by the Argentine authorities for the international arrest of members of Muslim terrorist groups that allegedly masterminded the attacks have not been successful.

#### Australia

Australia, which has ratified most international conventions on terrorism, has no single law or government body devoted solely to anti-terrorism. Provisions covering what might constitute acts of terrorism are found in many national security laws, and a national anti-terrorism plan and structure of coordinating committees is intended to permit effective response to terrorist incidents. A review of counter-terrorism laws has begun.

### Canada

Unlike other Commonwealth countries, since 1995 Canada has not enacted a law specifically designed to deter and punish acts of terrorism. In reaction to the September 11 events, a bill to strip organizations that support terrorism of their charitable status is to be strengthened. Reform of immigration laws and amendment of the Official Secrets Act are being contemplated. Existing extradition law interpretations to allow for extradition in exceptional circumstances are deemed adequate.

### China

The People's Republic of China does not have a separate anti-terrorism law. Sanctions against terrorist organizations are covered under China's criminal law, which also has provisions against acts potentially related to terrorism. Some provisions in other rules and regulations control religious activities deemed disruptive or subversive and proscribe terrorist cyber crime. The PRC is a member of several international conventions relevant to counter-terrorism and has regional pacts with border states to fight "terrorism, separatism, and extremism." It has a domestic extradition law and extradition treaties with a number of nations, but not with the United States. The terrorist attacks against the United States have not prompted China to enact new counter-terrorism legislation. However, there is a new ban against passengers on civilian flights carrying cutting tools. In addition, the PRC has tightened national security by closing its border with Afghanistan and halting visa issuance to persons from 19 Middle Eastern countries. It has also enhanced protection for Americans in the PRC.

### Czech Republic

The Czech Republic does not have a special law concerning terrorism, nor is terrorism mentioned in the Criminal Code in general terms. The Czech Republic is, however, a party to the European Convention on the Suppression of Terrorism. It is also a party to the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, and to the International Convention Against the Taking of Hostages. The subject of terrorism is generally covered under the provisions for the punishment of acts actually committed. The Republic, however, has enacted specific measures against the Taliban movement in Afghanistan. These measures prohibit the export of materials of military use, technical assistance, financial transactions, and the opening of offices of the movement or its airlines in the Republic.

### European Union

In the aftermath of the tragic events of September 11 in the United States, the European Union issued a joint declaration condemning the attack, giving unanimous support to the U.S. and calling for a broad coalition of states in the fight against terrorism. The European Union is obliged by treaty-based provisions to provide its citizens with "a high level of safety within an area of freedom, security and justice." In an effort to harmonize the diverse legislation on terrorism among its fifteen Member States, the European Commission introduced two draft framework decisions on Combating Terrorism and the European Arrest Warrant. The first provides a common definition of terrorism, a list of offenses which must be treated as acts of terrorism, and appropriate penalties. The second will eventually replace the traditional extradition

procedure and aims to facilitate and accelerate criminal procedures with regard to arrest, warrant, detention and surrender of a person for whom an arrest warrant has been issued by a Member State .

### France

France has a body of law dealing specifically with acts of terrorism. Their definition and the penalties applicable are contained in the New Penal Code while special rules of procedure concerning jurisdiction, investigatory detention and searches and seizures can be found in the Code of Penal Procedure. In addition, individual laws and decrees address narrower issues such as the gathering of information through interception of telephone communications and video surveillance. Investigatory detention may be extended up to a total of four days, access to an attorney may be delayed by 72 hours, and searches and seizures may take place even during the night and do not require the consent of the person on whose property it takes place. Penalties are more severe. At any time France can trigger a standing security plan originally conceived in 1978. This plan was put into effect the day after the September 11<sup>th</sup> attacks in the U.S. Finally, a fund provides full compensation to terrorism victims for their bodily injuries .

### Germany

In response to domestic terrorism, Germany enacted a conspiracy provision for terrorism and a series of changes in criminal procedure that allow for tougher law enforcement. These measures were introduced throughout the 1970s and 1980s, some of them on a temporary basis, and by 1990, the German left-wing terrorist movement was defeated. During the 1990s, German law enforcement efforts focused on the newly emerging dangers of organized crime, and to combat these, more reforms were enacted, among them money laundering legislation and the permissibility of acoustic surveillance of private homes and business quarters to combat certain serious crimes. These measures may also prove useful in terrorist investigations. Germany's reaction to the September 11 attack on the United States focused not only on issues of international cooperation, but also on how to prevent terrorist strikes at home. Germany's assistance in the combat of international terrorism is ensured through a framework of treaties and their domestic implementation. Germany's participation in NATO actions or other combat measures may require the consent of the German parliament. At this time it appears quite likely that such a consent will be given. On the domestic front, it appears that the events of September 11 may cause Germany to enact further legislation that may shift the balance between personal liberties and effective law enforcement.

### Greece

In an effort to fight the scourge of terrorism, Greece has recently adopted tougher provisions on organized crime. Some of these provisions, such as DNA testing and investigative methods, have raised public concerns due to potential infringement of constitutionally protected civil rights.

### Hong Kong

The Hong Kong Special Administrative Region of the People's Republic of China has the Internationally Protected Persons and Taking of Hostages Ordinance, passed in 1995 while the Region was a British Crown Colony. The Ordinance is still part of the laws of the HKSAR. It was passed to implement both the Convention on the Prevention and Punishment of Crimes Against Internationally

Protected Persons, Including Diplomatic Agents, and the Convention Against the Taking of Hostages. Other HKSAR laws that can be used to combat terrorism are the Crimes Ordinance and the Organized and Serious Crimes Ordinance. The former prohibits such acts as causing explosions, destroying property, and threatening to destroy or damage property. The latter law applies to crimes listed in Schedule I of the Crimes Ordinance, when committed under certain circumstances. Examples are crimes committed by two or more persons involving substantial planning and organization and involving the loss of life or substantial risk of loss of life.

### India

India has experienced a considerable amount of terrorist activity and has enacted four Acts in response to that activity, including a provision dealing with the hijacking of aircraft while in flight. Such crimes are dealt with and tried by Special Courts which exercise exclusive jurisdiction over them.

### Iran

For a long time, the terms “terror” and “terrorism” were unknown to the Iranian lawmaker and thus there is no mention of the term in the earlier criminal laws. Instead, the lawmaker has used common legal terms such as “murder, assassination, attempt, killing,” and “assault.” The coming to power of an Islamic Revolutionary regime in 1979 triggered a wave of violence and plots against the regime, resulting in the murder of many prominent revolutionary figures. To counter the escalating wave of terrorism, revolutionary courts were established with wide jurisdiction to try those engaged in terrorism and acts of violence against the regime. The term “terror” was for the first time used in the Decree Law of July 1979 on the Jurisdiction of the Revolutionary Courts. Internationally, Iran has joined a number of conventions relating to terrorism. Extraterritorial jurisdiction is given to Iranian law where a crime is committed against the internal or external security of the Islamic State, but no Iranian citizen may be extradited to a foreign country.

### Israel

Israel is a party to a 1996 bi-national Counter-terrorism Cooperation Accord, in addition to other security agreements. Israel’s domestic legislation defines terrorist organizations as those resorting in their activities to acts or threats of violence calculated to cause death or injury to a person. In addition, associations advocating or encouraging the subversion of the political order by revolution or sabotage, violent overthrow of the lawful government, and destruction or injury of state property are considered unlawful. Membership, advocacy, and support by publication, donations, or facilitation of meetings or storage for such organizations are prohibited and subject to severe penalties. Special investigative powers are provided to the General Security Service. They include access to a data bank maintained by the Ministry of Justice for the purpose of preventing money laundering, as well as the ability to obtain special permits for otherwise unlawful secret monitoring of conversations. During a declared state of emergency, the Minister of Defense and the Chief of the General Staff enjoy powers to detain persons for extended periods of time for reasons of state security. The execution of these powers is subject to periodic judicial review and appeal. Terrorism-related offenses are usually subject to imprisonment terms and may be a basis for extradition and deportation.

### Italy

Between 1969 and 1982, Italy experienced serious terrorist violence. Beginning in 1975, emergency legislation to confront terrorism was approved, which reversed legislation enacted up to the early 1970s by reformist governments in defense of individual rights. In addition to granting greater powers to the police and imposing on citizens the duty to report any property transfer, use, or rental, the emergency legislation required identification of anyone performing bank transactions in excess of 20 million *liras* and introduced new terrorism-related crimes. Legislation encouraging disassociation from terrorist organizations was developed in 1982, which may be credited for most of the successes in defeating such organizations.

### Japan

Terrorism in Japan is governed by the Penal Code and other special criminal laws. In 1952, to counter possible terrorist activities by the Communist Party and far-left groups, the Subversive Activities Prevention Law was enacted. In 1970, laws that counter aircraft hijacking and hostage taking were enacted. In the late 1990s, Japan enacted various laws relating to terrorism, for example, the Law Concerning the Prevention of Bodily Harm Caused by Sarin Gas and the Like and the Law Concerning Punishment of Organized Crime and Regulation of Profits Derived from Crimes. Eavesdropping is permitted in the investigation of certain crimes. Recently, the Police and the Self Defense Forces have focused on counter-terrorism measures. After the terrorist attack on the United States on September 11, 2001, Prime Minister Junichiro Koizumi pledged Japan's support of U.S. action and offered intelligence and logistical assistance to the United States. To provide such support, the Japanese Diet has to enact a new law. Current law allows Japan to provide logistic support to United States forces only when an emergency situation occurs in the area surrounding Japan. Japan cannot play a military role because its Constitution bans collective self-defense.

### Liberia

Liberia has no specific provisions on terrorism. However, the criminal law of the country contains general provisions that may be applied to terrorist activities. These provisions pertain to conspiracy against the State, the President, and members of the diplomatic corps in Liberia. Punishment is death and/or life imprisonment. Other relevant provisions include punishment of those who arm vessels or aircraft against people anywhere in the world who are at peace with Liberia, who carry out military expeditions against such peace-loving people, and who commit piracy or other related activities. The penalty for piracy is imprisonment for life.

### Mexico

Mexican federal legislation on terrorism consists mainly of provisions of the Federal Penal Code and the Federal Law Against Organized Crime. Related subjects and their legislation are also applicable, such as extraterritorial jurisdiction of the Mexican federal criminal law, extradition, categories of federal crimes, the status of foreigners in Mexico, assistance to victims of terrorism, and a prohibition against broadcasting programs praising violence and crime.

### Netherlands

The Netherlands does not have a specific law on anti-terrorism, nor is terrorism mentioned in the Criminal Code in general terms. In order to give statutory basis to a number of investigation methods used in practice by the police and criminal justice authorities, a special title was inserted in the Code of Criminal Procedure in February 2000, aimed at standardizing and improving these new criminal investigative methods and providing undercover powers. Even though Dutch law does not have specific provisions on terrorism, provisions in the Criminal Code can be applied to acts of terrorism.

### Pakistan

Pakistan has enacted several laws in response to the worldwide phenomenon of terrorism with groups operating across borders. Special courts have been established that provide summary trials, quick decisions and stringent punishments. The Schedule to these enactments lists terrorist offenses among those that are to be tried exclusively by such courts.

### Poland

The Republic of Poland does not have a specific law on terrorism, nor a specific crime of "terrorism." The new Criminal Code specifies only particular offenses such as those against public safety. However, the Polish government understands the threat posed by international terrorism. It hopes to join the European Union soon and has been adjusting all its laws to the European Union standards. Poland joined all the European Union countries in signing the major international conventions directed at the suppression of terrorism. Pursuant to the Polish Constitution, these provisions apply directly. Like all European Union countries, Poland does not have a death penalty.

### Russian Federation

Analysis of the National Security Concept and far-reaching federal laws, which determine the principles and organization of the fight against terrorism in Russia, reveals that Government activities aimed at the creation of a state-wide set of countermeasures designed to put an end to terrorist acts and ensure the security of individuals and the state are allowed. Legal provisions deal with the conduct of a counter-terrorist operation. Legal grounds arise for the solution of problems arising from human rights restrictions, such as negotiations with terrorists, legal protection of those who fight against terrorism, reimbursement of damage caused by terrorist actions, and punishment of terrorists. Russia is involved in the international fight against terrorism, adheres to European and international instruments of law, and works closely with other former Soviet republics in preventing, uncovering, and stopping terrorist activities. Responses to the recent terrorist attacks in the United States have been made by the Russian legislature and executive authorities, including amendments to Russian legislation on criminal investigation.

### Turkey

Turkey has been plagued with terrorist attacks for more than three decades. Initially, some laws were amended to expand the powers of the security forces, and several areas were placed under martial law. As the terrorism escalated, the government realized more strict measures were needed to fight terrorism.

Thus, the Security Courts Establishment and Procedure Law in 1983 and the Anti-Terrorism Law in 1991 were enacted. These laws were much criticized by human rights groups at home and abroad because they curtailed some human rights of accused terrorists.

### United Kingdom

A comprehensive statute to combat terrorism came fully into force in the United Kingdom in early 2001. It explicitly covers terrorist acts throughout the world and a wider definition of terrorism recognizes that it may also have religious or ideological motivation. Al Qaida, the organization led by Osama bin Laden, has been placed on a list of proscribed organizations under the new law. In the aftermath of the atrocities committed on September 11, 2001, when Parliament convenes in October the government intends to introduce three bills providing tougher measures in face of the new circumstances.