

DENMARK

June 2006

www.coe.int/gmt

THE PROVISIONS IN THE DANISH CRIMINAL CODE CONCERNING TERRORISM

Section 114

A person is liable to imprisonment for any term up to life imprisonment if he commits one or more of the following offences with the intent seriously to intimidate a population or unlawfully to compel Danish or foreign public authorities or an international organisation to do or to abstain from doing any act or to destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation, provided that the offence may inflict serious harm on a country or an international organisation by virtue of its nature or the context in which it is committed: -

- (i) Homicide under section 237.
- (ii) Assault under section 245 or 246.
- (iii) Deprivation of liberty under section 261.
- (iv) Impairment of the safe operation of means of transport under section 184(1), unlawful disturbances in the operation of public means of communication, etc., under section 193(1) or very serious damage to property under section 291(2), where such offences are committed in a manner likely to endanger human lives or cause considerable economic loss.
- (v) Unlawful seizure of public means of transport under section 183 a.
- (vi) Serious violations of the arms legislation under section 192 a or under section 10(2) of the Act on Weapons and Explosives.
- (vii) Arson under section 180, explosion, spreading of noxious gases, floods, shipwreck or any railway or other traffic accident under section 183(1) and (2), injurious pollution of the water supply under section 186(1), injurious poisoning or pollution of products intended for general use, etc., under section 187(1).
- (viii) Possession or use, etc., of radioactive substances pursuant to section 192b.

(2) The same penalty shall apply to any person who transports weapons or explosives with the intent as referred to in subsection (1) hereof.

(3) The same penalty shall also apply to any person who threatens to commit one of the offences listed in subsections (1) and (2) hereof with the intent as referred to in subsection (1) hereof."

Section 114a

If one of the acts referred to in subparagraphs (i) to (vi) is committed, but the offence does not fall within the scope of section 114, the penalty may exceed the maximum penalty prescribed for the offence by up to 50 per cent. Where the maximum penalty prescribed for the relevant act is less than four years' imprisonment, the penalty may nevertheless be increased to imprisonment for up to six years.



For further information please see the Country profiles on counter-terrorism capacity at www.coe.int/gmt.
Pour plus de renseignements, veuillez consulter les Profils nationaux sur la capacité de lutte contre le terrorisme: www.coe.int/gmt.



- (i) Violation of section 180, 181(1), 183(1) or (2), 183a, 184(1), 192a, 193(1), 237, 244, 245, 246, 250, 252(1), 266, 288 or 291(1) or (2), where the act falls within the scope of Article 1 of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed on 16 December 1970, Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, concluded on 23 September 1971, or Article II of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done on 24 February 1988.
- (ii) Violation of section 180, 181(1), 183(1) or (2), 184(1), 237, 244, 245, 246, 250, 252(1), 260, 261(1) or (2), 266 or 191(1) or (2), where the act falls within the scope of Article 2 of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted on 14 December 1973.
- (iii) Violation of section 261(1) or (2), where the act falls within the scope of Article 1 of the International Convention Against the Taking of Hostages, adopted on 17 December 1979.
- (iv) Violation of section 180, 181(1), 183(1) or (2), 186(1), 192a, 192b, 237, 244, 245, 246, 260, 266, 276, 278, 279, 279a, 281, 288 or 291(2), where the act falls within the scope of Article 7 of the International Atomic Energy Agency Convention on the Physical Protection of Nuclear Material, adopted on 26 October 1979.
- (v) Violation of section 180, 181(1), 183(1) or (2), 183a, 184(1), 192a, 193(1), 237, 244, 245, 246, 252(1), 260, 266, 288 or 291(1) or (2), where the act falls within the scope of Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done on 10 March 1988, or Article 2 of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done on 10 March 1988.
- (vi) Violation of section 180, 181(1), 183(1) or (2), 183a, 184(1), 186(1), 192a, 193(1), 237, 244, 245, 246, 250, 252(1), 266 or 291(2), where the act falls within the scope of Article 2 of the International Convention for the Suppression of Terrorist Bombings, adopted on 15 December 1997.

Section 114b

A person is liable to imprisonment for any term not exceeding 10 years if he: -

- (i) directly or indirectly grants financial support to;
- (ii) directly or indirectly provides or collects funds for; or
- (iii) directly or indirectly makes money, other financial assets or financial or other similar services available to

a person, a group of persons or an association that commits or intends to commit acts falling within the scope of section 114 or 114a.

Section 114c

(1) A person is liable to imprisonment for up to 10 years if he recruits a person to commit or further acts falling within the scope of section 114 or 114a or to join a group or an association for the purpose of furthering the commission of acts of such nature by the group or association. In particularly aggravating circumstances, the penalty may be increased to imprisonment for up to 16 years. Particularly aggravating circumstances typically include cases of systematic or organised violations.

(2) A person is liable to imprisonment for up to six years if he recruits a person to commit or further acts falling within the scope of section 114b or to join a group or an association for the purpose of furthering the commission of acts of such nature by the group or association.

(3) A person is liable to imprisonment for up to six years if he accepts being recruited to commit acts falling within the scope of section 114 or 114a.

Section 114d

(1) A person is liable to imprisonment for up to 10 years if he trains, instructs or otherwise teaches a person to commit or further acts falling within the scope of section 114 or 114a, knowing that the person intends to use the skills for that purpose. In particularly aggravating circumstances, the penalty may be increased to imprisonment for up to 16 years. Particularly aggravating circumstances typically include cases of systematic or organised violations.

(2) A person is liable to imprisonment for up to six years if he trains, instructs or otherwise teaches a person to commit or further acts falling within the scope of section 114b, knowing that the person intends to use the skills acquired for that purpose.

(3) A person is liable to imprisonment for up to six years if he accepts being trained, instructed or otherwise taught to commit acts falling within the scope of section 114 or 114a.

Section 114e

A person is liable to imprisonment for up to six years if he otherwise furthers the activity of a person, a group or an association that commits or intends to commit acts falling within the scope of section 114, 114a, 114b, 114c or 114d.

Excerpt of the Report on Criminal Law Safeguards against Terrorism drafted by the Standing Committee on Criminal Matters under the Danish Ministry of Justice

1.2. Summary of the Report of the Standing Committee on Criminal Matters

1.2.1. Chapters 2 and 3 of this Report present the deliberations of the Standing Committee on Criminal Matters (*Straffelovrådet*) concerning the legislative amendments in the criminal law field required for Denmark's ratification and implementation of the Council of Europe Convention on the Prevention of Terrorism and the International Convention for the Suppression of Acts of Nuclear Terrorism, see Articles 5 to 12 and 14 of the European Convention and Articles 2, 5 and 9 of the International Convention. The Standing Committee based its deliberations on two memoranda submitted to the Legal Affairs Committee of the Danish Parliament (*Folketingets Retsudvalg*) on 10 May and 18 July 2005, respectively.

In chapter 4, the Standing Committee considers whether the special anti-terror provisions of the Danish Criminal Code (*straffeloven*), in conjunction with the criminal legislation in general, provide adequate safeguards against terrorism.

Chapter 5 contains the draft bill of the Standing Committee. In its Report, the Standing Committee has not considered the need to amend other statutes, such as the Administration of Justice Act (*retsplejeloven*) and the Extradition Act (*udleveringsloven*).

Annex 1 of the Report provides a list of the relevant provisions of the conventions referred to in the Appendix to the European Convention. The two conventions are reproduced in Annexes 2 and 3 and are accompanied by an unofficial translation.

1.2.2. Concerning the European Convention on the Prevention of Terrorism, the Standing Committee on Criminal Matters supports the assumption of the Ministry of Justice, according to which amendments will only be necessary as a result of the implementation of Articles 6 and 7, as seen together with Article 9, on the recruitment and training for terrorism.

The Standing Committee proposes that provisions be inserted into the Criminal Code as sections 114a to 114e to meet the obligation of criminalisation set out in Articles 6 and 7 as read with Article 9. In continuation of this, the Standing Committee proposes that the field of criminal responsibility be extended to include any person who allows himself to be recruited or trained for terrorism.

The Standing Committee also proposes that the current section 114a on the financing of terrorism be re-enacted as section 114b so that the provision will comprise the financing of terrorism and similar acts under both the current section 114 and section 114a of the draft bill. The addition of acts comprised by section 114a furthermore ensures that Denmark fully meets the obligation set out in Article 2(1)(a) of the International Convention for the Suppression of the Financing of Terrorism to make the financing of terrorism punishable.

The Standing Committee proposes adapting the current section 114b to make the provision comprise the furthering of the activities carried out by individuals, thereby bringing the provision into line with the current section 114a, and to enlarge the scope of the provision with the furthering of acts of the type specified in the current section 114a(1)(iii) (section 114b(1)(iii) of the draft bill) and in sections 114a, 114c and 114d of the draft bill.

A minority among the Standing Committee members (Professor Vagn Greve) states that it would be natural for Danish law to require specific intent in connection with the various provisions on terrorism and similar acts, particularly when the criminalisation concerns acts very remote from the actual act of terrorism.

The Standing Committee found no adequate basis for separating the provisions on terrorism, etc., into a statute on its own or into a separate Part of the Criminal Code. Instead, the Standing Committee proposes an adaptation of the heading of Part 13 of the Criminal Code.

The discussions of the Standing Committee have led to a proposal to amend the current section 183a so that the rules governing the hijacking of ships, etc., will be extended to comprise the hijacking of offshore facilities. This proposal has been drafted upon discussions with the Danish Energy Agency (*Energistyrelsen*).

Another matter raised was the inclusion of groundwater pollution in section 186(1), which concerns water supply pollution causing a health hazard. The Standing Committee finds that there may be reason to include this matter in the deliberations of the Ministry of Justice in connection with the draft amendments now proposed by the Standing Committee, which amendments must be said to be naturally connected with section 186(1).

1.2.3. As regards the International Convention for the Suppression of Acts of Nuclear Terrorism, the Standing Committee on Criminal Matters supports the assumption of the Ministry of Justice, according to which amendments will only be necessary as a result of the implementation of Articles 2 and 5 on the possession and use of nuclear substances, etc., with the intent to cause death or serious bodily injury or substantial damage to property or the environment, etc.

The Standing Committee proposes insertion of a new provision, section 192b, into the Criminal Code which is directed at the possession and use of nuclear substances, etc., with the intent to inflict bodily injury on others or to cause substantial damage to the property of others person or to the environment. This provision has been drafted upon discussions with the Danish National Institute of Radiation Hygiene (*Statens Institut for Strålehygiejne*).

1.2.4. The Standing Committee finds no need to propose new provisions on the criminalisation of the acceptance of funds from a terrorist organisation, such as cases where a group or an association which commits or intends to commit acts of terrorism applies funds lawfully obtained, such as salary income or income from lawful business activities, to support lawful activities, for example in the form of humanitarian work carried out under the responsibility of the Red Cross. The Standing Committee also finds that the current provisions and the provisions proposed in the draft bill of the Standing Committee provide for punishment in the cases where it has proved necessary.