

Law 4/2002

Law on the compliance with certain acts of international law

The Legislative Assembly decrees, pursuant to Article 71, paragraph 1, of the Basic Law of the MSAR, the following with the force of law:

CHAPTER I General provisions

Article 1 Definitions

For the purpose of this law, it is considered as:

- 1) International organization – an international organization, reserved to sovereign states, of which the People’s Republic of China is a member;
- 2) Competent international body – body of an international organization referred in the previous subparagraph that has the competence under the terms of its respective constitutive treaty to adopt norms, which shall be applied to the parties to that constitutive treaty or a committee or a commission of an international competent body, established by that body, for specific issues, *inter alia*, the United Nations Security Council and its respective Sanctions Committees;
- 3) Applicable international act – decisions, resolutions or any other instruments of international law issued by a competent international body, establishing norms for which compliance the People’s Republic of China is externally bound to in relation to the Macao Special Administrative Region;

4) Sanction – any type of restrictive, coercive, prohibitive or injunctive measures, whether of a criminal, administrative, commercial, financial, economic, energetic or military nature;

5) International sanctionary norm – norm established in an applicable international act that establishes a sanction or from which results an obligation to prevent or impose a sanction;

6) Prohibited non-military services – services of any nature, excluding military or paramilitary, provided under any title, that are object of an international sanctionary norm, such as: road transportation, maritime, internal waters or air navigation services, technical or technological, entrepreneurial or maintenance assistance services;

7) Prohibited products or merchandise – items of any nature that are object of an international sanctionary norm, such as: products, merchandise, material, road, sea or air circulation vehicles, equipment of any type or any parts – even if spare parts;

8) Prohibited funds – any funds, instruments, financial resources or cash assets, notwithstanding their nature, their form and their ownership, as well as any transactions carried out that are object of an international sanctionary norm;

9) Prohibited weapons or connected equipment – weapons of any nature and related material of all types that are object of an international sanctionary norm, including military vehicles of terrestrial, air or maritime circulation, technologies, means of production, components, support installations and systems used in the manufacturing, production, reparation, maintenance, usage, storage, investigation or development of any type of weapon or equipment covered by this definition;

10) Prohibited logistical-military support and services of a military nature – any type of direct or indirect supply or availability of persons or material intended for military preparation or training, as well as services of technical or entrepreneurial support, and technological assistance, related to the design, development, investigation, manufacturing, production, usage, reparation, maintenance or storage of any type of prohibited weapons or related equipment that are object of an international sanctionary norm.

Article 2

Object

The object of this law aims to ensure compliance with the norms covered in international acts, which are non self-executing and that are applicable to Macao Special Administrative Region, issued by the competent international body, *inter alia*, the resolutions of the United Nations Security Council.

Article 3

Unity principle

1. The provisions of the applicable international acts and those of this law are jointly understood as a single diploma, starting from the day of the publication in the *Macao Special Administrative Region Official Gazette* of the international act in which the provisions are inserted in and as long as the People's Republic of China is internationally bound to.

2. Any reference to other laws from this law or reference in other laws to this law constitutes simultaneously a reference to the internationally applicable act or acts.

Article 4

Scope

1. This law applies to all acts committed in the Macao Special Administrative Region or aboard a vessel or an aircraft registered in the Macao Special Administrative Region, by natural or legal persons.

2. This law also applies to acts prohibited by an applicable international act that are committed outside the Macao Special Administrative Region by natural persons residing in the Macao Special Administrative Region and by legal persons formed in accordance to the Macao Special Administrative Region law.

CHAPTER II

Competencies and supervision

Article 5

Implementation measures

1. Without prejudice to the competencies attributed by law to other bodies or entities of the Macao Special Administrative Region, it is the competence of the Chief Executive to order for any implementation measures that are deemed to be necessary and appropriate in view to comply with the applicable international acts.
2. The Chief Executive can transfer to other members of the Government the competence established in the preceding paragraph.

Article 6 **Supervisory entities**

1. The supervision of the compliance with the obligations arising from an applicable international act or from the implementation measures ordered by the Chief Executive befall on the competent entities of the Macao Special Administrative Region Government in accordance with the subject-matter that those obligations or measures relate to.
2. When performing their duties, the supervisory entities may request for the collaboration of any other public or private entities, *inter alia*, the law enforcement authorities.

Article 7 **Duties of the supervisory entities**

1. Within the scope of its own competence and of the competence that are committed to the referred entities by this law, the supervisory entities are under the obligation of taking immediate action and of taking all the necessary and appropriate acts in order to comply with the applicable international act or with the implementation measures ordered by the Chief Executive.
2. The supervisory entities have the duty to issue instructions and to communicate them to the public or private entities that are under their guidance, coordination or

supervision, whenever the complexity of the procedures to be observed, by virtue of the applicable international act, so demands.

Article 8

Powers of the supervisory entities

Under the terms of the preceding Article, it falls, *inter alia*, on the:

1) Civil Aviation Authority – the power to deny or cancel the issue of air operator and of air navigational ability certificates, as well as the power to issue instructions to refuse to authorize aircrafts object of an international sanctionary norm to take-off or land in the Macao Special Administrative Region or to fly-over the Macao Special Administrative Region or to prohibit the provision of engineering or maintenance services to those aircrafts;

2) Monetary Authority of Macao – the power to issue instructions regarding prohibited funds, addressed to operators that carry out activities under its supervision;

3) Customs Services – the power to prevent foreign trade operations that have as their object prohibited products or merchandise;

4) Entities with their own or delegated powers to grant a prior authorization to conduct foreign trade operations – the power to deny, restrict or revoke foreign trade operation licenses;

5) Law enforcement authorities – the power to act in a way to prevent the entry to, stay in or transit through the Macao Special Administrative Region of persons object to an international sanctionary norm or to the implementation measures ordered by the Chief Executive, with the exception of residents of the Macao Special Administrative Region.

Article 9

Communication requirements

1. The communications to be made pursuant to Article 7 (2) shall include a detailed description of:

1) The acts to be omitted or to be practiced;

2) The situations that, in order to ensure the operation of vital services or for humanitarian or other reasons, are susceptible of being exempted from the prohibition established in the applicable international act according to its own terms.

2. It is equally mandatory that the communications include a mention that, regardless of the fact that the violation of the prohibition contained in the applicable international act constitutes a commission of a criminal offence, the disrespect to the instructions covered in the communication constitutes the crime of qualified disobedience.

Article 10

Exemption requests

1. When the applicable international act allows for exceptions to the prohibitions therein established, the interested parties shall submit to the competent supervisory entity an exemption request duly substantiated.

2. The exemption request referred in the preceding paragraph shall be accompanied by all the information and evidentiary documents that are deemed to be necessary to verify the exemption conditions established in the applicable international act in each specific case.

3. The competent entity may approve application forms for the purpose of the submission of the exemption request.

4. In case there are application forms approved by the competent international body, the person submitting the exemption request is also under the obligation of filing those forms in one of the internationally required languages.

5. The exemption request shall be duly instructed by the supervisory entity; such request shall be forwarded to the Chief Executive together with the entity's opinion.

6. The Chief Executive shall transmit the exemption request to the Central People's Government in order to obtain a decision or to submit it to the competent international body.

7. Once the communication by the Central People's Government has been received, the Chief Executive shall issue a document certifying the decision of approval or refusal and shall submit it to the supervisory entity, which shall immediately notify the interested party.

8. The exemption requests shall be conducted within the shortest possible time; preference shall be given to those requests based on humanitarian reasons of an urgent character in relation to other ongoing procedures within the respective supervisory entity.

CHAPTER III

Criminal provisions

Section I

General provisions

Article 11

Application in time

1. The intentional or negligent practice of the facts provided for in the criminal norms covered in this law is punishable whenever and in the extent that those facts are also object of a sanction or of an international sanctionary norm established in an applicable international act that has been published in the *Macao Special Administrative Region Official Gazette* prior to the moment of that practice.

2. The fact committed after the publication referred to in the preceding paragraph and during the period when the international act is applicable shall continue to be punishable if the competent international body adopts a new act that delays, suspends or terminates the sanction or the international sanctionary norm established in that previous applicable international act.

3. Regardless of its publication in the *Macao Special Administrative Region Official Gazette*, the adoption by the competent international body of an act that delays, suspends or terminates the sanction or the international sanctionary norm previously imposed by that body shall determine that the act committed after the date of its entry into force in the international law order is no longer punishable.

Article 12

Material application

1. The criminal offences provided for in this law shall be equally applicable to whoever commits a fact that, fulfilling the elements of the respective type of criminal offence, is provided for under an international sanctionary norm imposed not to a State or Territory but to a zone or region enclosed by several States, as well as to natural or legal persons or entities, such as a political party, army, faction or any other type of group or organization expressly identified in the international sanctionary norm, whatever its nature or origin.

2. The existence of rights conferred or obligations imposed by contract, agreement, license or authorization within the of domestic or international law, prior to the date of adoption of the applicable international act that foresee or allow for the practice of those acts, shall not remove the criminal liability of the perpetrator.

3. Without prejudice of the applicable criminal norm that punishes the fact with a heavier penalty, the punishment of the facts incriminated in this law shall not remove the civil, disciplinary or other liability that befalls to the case.

Article 13

Non-punishment

The practice of facts provided for in this law shall not be punishable whenever it is object of a previous decision of exception by the competent international body or, in case the applicable international act expressly admits it, from the part of another competent body or entity.

Article 14
Attempt

Attempt is punishable for the criminal offences provided for in this law.

Article 15
Criminal proceedings

1. Criminal proceedings for the criminal offences provided for in this law shall not depend on a complaint.
2. The prescribed limitation periods for the criminal proceedings for the criminal offences provided for in this law is of five years.

Article 16
Acting on behalf of another person

1. Whoever acts in legal or voluntary behalf of another shall be punishable, even when the respective type of criminal offence demands:
 - a) For certain personal elements and these can only be verified on the person of whose power of representation being carried out; or
 - b) That the perpetrator commits the fact on his/her own interest and the representative acts in the interest of the person of whose power of representation being carried out.
2. The invalidity or the non-production of legal effects of the act that provides grounds for the power of representation shall not hinder the application of the previous number.
3. The person whose power of representation being carried out is jointly liable, in accordance with civil law, for the payment of penalties, damages and other compensations that the perpetrator is sentenced to pay for the criminal offences provided for in this law, under the terms of the preceding paragraphs.

Article 17

Criminal responsibility of the legal persons

1. The legal persons, even if irregularly formed, and the associations without legal personality shall be liable for the criminal offences provided for in this law, when they are committed by their members, workers or people rendering services, representatives or agents or by holders of their social bodies, acting on their behalf and in their collective interest.

2. The invalidity the act in which the relationship between the agent and the legal person is based on shall not hinder the application of the preceding paragraph.

3. The liability is excluded when the agent has acted against the expressed orders or instructions of whoever has the right to deliver them.

4. The liability of the entities referred in paragraph 1 shall not exclude the individual liability of the respective perpetrator, being paragraph 3 of the preceding Article applicable in that case *mutatis mutandis*.

Article 18

Main penalties applicable to legal persons

1. Applicable to the entities referred to in the preceding Article for the criminal offences provided for in this law shall be the main penalty of a fine corresponding to twice the days of the imprisonment penalty sentenced in the respective type of criminal offence.

2. If the penalty is applicable to an entity without legal personality, its common property shall be liable, and in its absence or insufficiency, the property of each one of its associates shall be, jointly and severally, liable.

Article 19

Accessory penalties

1. Whoever is punished for a criminal offence provided for in this law may, given the concrete seriousness of the fact, be subject to the following accessory penalties:

- 1) Incapacity in the exercise of political rights, for a period of 1 to 10 years;
- 2) Prohibition of the exercise of certain professions or activities, for a period of 1 to 10 years;
- 3) Deprivation of the right to participate in direct or public tenders and direct consultations, for a period of 1 to 10 years;
- 4) Prohibition to contact certain persons, for a period of 1 to 5 years;
- 5) Expulsion and interdiction to enter in the MSAR, when not a resident, for a period of 1 to 5 years;
- 6) Temporary closing of the establishment, for 5 years;
- 7) Definite closing of the establishment;
- 8) Judicial dissolution.

2. The accessory penalties may be applied cumulatively.

3. The transmission or transfer of the rights of any nature related to the exercise of the profession or activity, which take place after the instauration of the criminal proceeding or after the criminal offence has been committed shall not preclude the application of the accessory penalties provided for in paragraph 7 (6) and (7), except if the transmitter or the transferor is in good faith.

4. The penalty of judicial dissolution shall only be imposed when the members, shareholders, associates, office-holders of the bodies or representatives of the legal entity had the intention of, through that entity, committing the criminal offences provided for by this law; or whenever the continuous commission of such facts demonstrates that that entity is being used for that purpose or whenever there is a reasonable concern that the

entity may continue to be used for the commission of similar offences either by its members or by whoever has the respective administration or management.

Section II
Special criminal offences

Article 20
Provision of prohibited non-military services

1. Whoever intentionally renders services of a prohibited non-military nature shall be punished with a penalty of 3 years of imprisonment.
2. Negligence shall be punished with a penalty of imprisonment of 6 months or a fine penalty of up to 180 days.

Article 21
Transaction of prohibited products or merchandise

1. Whoever intentionally imports prohibited products or merchandise, originating or coming from a State or Territory that has been object to an international sanctionary norm, which are exported from that State or Territory, shall be punished with a penalty of up to 3 years of imprisonment.
2. It incurs from the same penalty provided for in the preceding paragraph, whoever intentionally exports, sells or by any other means supplies to any natural or legal person, public or private, prohibited products or merchandise, whether or not originating or coming from the Macao Special Administrative Region, provided that their destination is a State or entity that has been object to an international sanctionary norm, or any other entrepreneurial activity developed in or conducted from that State or entity.

Article 22
[Provision and ...]Application or availability of the prohibited funds

1. Whoever intentionally applies, invests, transfers or avails prohibited funds to a State, Territory or any public or private person or entity, that has been object to an

international sanctionary norm, whether or not those funds originate or come from the Macao Special Administrative Region, shall be punished with a penalty of 1 to 5 years of imprisonment and a fine penalty.

2. Negligence shall be punished with a penalty of up to 1 year of imprisonment and a fine penalty of 360 days.

3. If the funds referred to in paragraph 1 are intended to be used for the direct or indirect financing of prohibited weapons or related equipment, the applicable fine penalty shall be the one provided for the criminal offence of Article 23, whenever the applicable international act establishes an international sanctionary norm that relates to weapons or related equipment.

Article 23

Supply of weapons or related equipment and provision of military logistical support or of prohibited military services

1. Whoever intentionally sells or supplies prohibited weapons or related equipment, whether or not originating or coming from the Macao Special Administrative Region, to a State, Territory or any other person or entity, public or private, which has been object to an international sanctionary norm, shall be punished with penalty of 2 to 8 years of imprisonment, unless a heavier penalty is applicable pursuant to another legal provision.

2. It incurs from the same penalty, whoever provides prohibited military services or prohibited military logistical support to a State, Territory or person or entity, public or private, which has been object to an international sanctionary norm.

3. Negligence shall be punished with a penalty of up to 2 years of imprisonment and with a fine penalty of 600 days.

Article 24

Encouragement to commit illegal acts

1. Whoever develops activities that directly or indirectly encourage or aim at encouraging the commitment of the facts provided for and punished under the preceding

Articles shall be punished with the penalty prescribed by the respective type of criminal offence.

2. Whoever develops activities that directly or indirectly promote or aim at promoting the economy of a State, Territory or any person or entity, public or private, that has been object of an international sanctionary norm, *inter alia*, those that promote the export or the transfer of prohibited products or merchandise originating or coming from that State or Territory, including any transactions carried out after that illegal export, arriving from that State or Territory, of the referred products or merchandise, as well as the transfer of funds, or any other forms of financial transaction intended to be used to finance those activities or transactions, shall be punished with the penalty prescribed for those criminal offences.

Chapter IV

Final and transitory provisions

Article 25

Applicable law

1. For the criminal offences provided for in this diploma, the Criminal Code and other criminal legislation, the Criminal Procedure Code and complementary legislation shall have subsidiary application.

2. For the administrative acts provided for in this diploma, the Administrative Procedure Code and the Contentious Administrative Procedure Code shall be applicable.

Article 26

Entry into force

This law enters into force on the day immediately following its publication.

Approved on 2 April 2002.

Vice-President of the Legislative Assembly, Lau Cheok Va.

Signed on 15 April 2002.

To be published.

The Chief-Executive, Ho Hau Wah