



UNITED NATIONS

E/NL.2002/7*

15 April 2002

SPANISH AND ENGLISH ONLY
ORIGINAL: SPANISH

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

CUBA

Communicated by the Government of Cuba

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

AMENDMENTS TO THE PENAL CODE OF THE REPUBLIC OF CUBA

* *Translator's note:* This document has been translated from the text transmitted to the Secretariat.

Amendments to the Penal Code of The Republic Of Cuba

INTRODUCTION

The Law that follows seeks to provide an adequate response to the current situation and possible future development of crime in the Republic of Cuba, without renouncing any of the internationally recognized principles of law that form the basis of Cuba's criminal legislation; the new law will strengthen these principles. This applies in particular to the individualization of punishment, which also takes international practice into account but places special emphasis on Cuba's domestic requirements. Basically, this Law restructures the degrees of punishment for statutory offences and other associated conduct that have an adverse effect on the public peace, Cuba's international image and the ethical and moral values of Cuban society and the health of the Cuban people. It adds three new offences to the Penal Code: money-laundering, traffic in persons and the sale and trafficking of minors.

These amendments and additions and the other offences covered in Book II of the Penal Code provide Cuba with adequate legal means to combat crime.

Ricardo Alarcón de Quesada

President of the National Assembly of People's Power of the Republic of Cuba.

I HEREBY DECLARE that, at its meeting on 15 February 1999, which was the first special meeting of the fifth legislature, the National Assembly of People's Power approved the following:

WHEREAS:

In recent years, certain types of criminal activity have increased and new types of offences have emerged, which are completely incompatible with the general ethical principles of Cuban society and call for an appropriate and energetic response with regard to both practical measures and statutory instruments, in particular those relating to the Penal Code;

The National Assembly of People's Power, by virtue of the powers vested in it by article 75, paragraph (b), of the Constitution of the Republic, has approved the following:

LAW No. 87 AMENDMENT OF THE PENAL CODE

ARTICLE 1. Articles 30 and 31 of the Penal Code are amended as follows: [...]

“Article 31. 1. Those sentenced to temporary or permanent deprivation of liberty and confined in prisons: [...]

“5. The period that a sentenced person spends in a hospital after having been diagnosed as an alcoholic or drug abuser who requires treatment shall be counted as part of the sentence to be served. With regard to sentenced persons confined in prisons who, after displaying symptoms of derangement, have been subjected to

security measures, the time spent in this situation shall be calculated in accordance with the relevant provisions of the Criminal Procedure Law.” [...]

ARTICLE 5. Article 55 of the Penal Code is amended as follows: [...]

“5. In any of these cases, the court may, in its sentence, stipulate that, once the term of imprisonment has been served, the sentenced person shall remain subject to special supervision by organs of the National Revolutionary Police for a period of from three to five years, and may impose on said person any or all of the following obligations, which may be changed or modified at any time by the court:

- “(a) Prohibition on change of residence without the court’s authorization;
- “(b) Prohibition on frequenting certain milieus or localities;
- “(c) Requirement to appear before the court at predetermined times;
- “(d) Any other measure that may contribute to his rehabilitation.

“6. For the purpose of implementing the provisions of this article, courts shall take into account sentences handed down by foreign courts that are recognized under agreements signed by the Republic of Cuba or, in the absence of such agreements, through certification by the Central Registry of Convicted Persons.” [...]

ARTICLE 10. Article 190 of the Penal Code is amended as follows:

“Article 190. 1. A penalty of imprisonment from four to ten years shall be imposed on any person who:

“(a) Without authorization manufactures, transports, traffics in, acquires, imports into or exports from the national territory or has in his possession for the purpose of trafficking, or in any way procures for another person, narcotic drugs, psychotropic substances or other substances with similar effects;

“(b) Maintains in his possession or conceals, without immediately notifying the authorities, narcotic drugs, psychotropic substances or other substances with similar effects that he has found;

“(c) Cultivates the plant *Cannabis indica*, known as marijuana, or other plants with similar properties, or knowingly possesses seeds or parts of such plants. If the cultivator is the owner, usufructuary or occupant by any legal title of the land, as an additional penalty the land shall be confiscated or the right to it revoked, as appropriate.

“2. The penalty shall be imprisonment from eight to twenty years if the quantities of drugs or other substances involved in the acts referred to in the preceding paragraph are relatively large. The penalty shall be imprisonment from fifteen to thirty years or death:

“(a) If the acts referred to in paragraph 1 are committed by public officials, authorities or their agents or assistants, or if those persons facilitate the commission of such acts by virtue of their position or through the use of means or resources belonging to the State;

“(b) If the person accused of transporting or engaging in illicit international traffic in narcotic drugs, psychotropic substances or other substances with similar

effects enters the national territory, for any reasons by ship or aircraft or other means of transport;

“(c) If the accused participates in any way in acts connected with illicit international traffic in narcotic drugs, psychotropic substances or other substances with similar effects;

“(d) If a person under the age of 16 is used in the commission of any of the acts referred to in the preceding paragraphs.

“4. Any person who, having knowledge of the preparation or commission of any of the offences provided for in this article, fails to report it shall be liable to a penalty of imprisonment from two to five years.

“5. Acts involved in the preparation of any of the offences provided for in this article shall be punished in accordance with the provisions of article 12, paragraph 5.

“6. Irrespective of the provisions of paragraph 1 (c), the property of persons found liable for any of the offences provided for in this article may also be confiscated as an additional penalty.” [...]

ARTICLE 21. A new chapter, Chapter II, shall be added to Title XIV of Book II of the Penal Code:

**“CHAPTER II
“MONEY-LAUNDERING**

“Article 346. 1. Any person who acquires, converts or transfers resources, property or rights thereto, or attempts to carry out such transactions, in full awareness, or having the obligation to know or rationally assume, from the occasion or circumstances of the transaction, that such resources, property or rights are the direct or indirect proceeds of acts connected with illicit trafficking in drugs, arms or persons, or with organized crime, shall be liable to a penalty of imprisonment from five to twelve years.

“2. Any person who conceals, or obstructs measures to ascertain, the nature, origin, whereabouts, destination, movement or true ownership of resources, property or rights thereto in full awareness, or having the obligation to know or rationally assume, from the occasion or circumstances of the transaction, that such resources, property or rights thereto are the proceeds of the offences referred to in the preceding paragraph shall be liable to the same penalty.

“3. If the acts referred to in paragraphs 1 and 2 are committed through inexcusable ignorance, the penalty shall be imprisonment from two to five years.

“4. The offences provided for in this article shall be punishable independently of other offences committed on the same occasion.

“5. The property of persons found liable for any of the offences provided for in the preceding paragraphs shall be confiscated as an additional penalty.” [...]

FINAL PROVISIONS

FIRST: Article 56, paragraph 4, of the Penal Code and any legal provisions conflicting with this Law are hereby repealed.

SECOND: This Law shall enter into force on the date of its publication in the Official Gazette of the Republic.

Done at the City of Havana on the twenty-sixth day of February nineteen hundred and ninety-nine, “Year of the Fortieth Anniversary of the Triumph of the Revolution”.

Ricardo Alarcón de Quesada
President