

S Korea's National Security Law

Editor's note: This is an unofficial translation of the National Security Law (see below for the original document). The sole purpose of this translation is to make the main gist of the Law available to our non-Korean readers. The readers are fore-wa rned that this English version is neither an accurate nor a legal representation of the Law. Several sections and paragraphs dealing with purely prosecutor matters are omitted. Some of the legal terms used here may not be precise or legally correct.

Chapter 1: Preamble

Article 1: Objectives

1. This Law is to suppress anti-State acts that endanger national security and to ensure nation's security, people's life and freedom.
2. Interpretation and application of this Law shall be limited to the least measures required to achieve the objectives of (1) above and any expanded interpretation of this Law or infringement of the basis citizens' rights guaranteed by the Constitution shall not be permitted.

Article 2: Definitions

1. The term "anti-State groups" refers domestic or foreign organizations or groups whose intentions are to conduct or assist infiltration of the Government or to cause national disturbances. (Revised 91.5.31)
2. Invalidated! (91.5.31)

Chapter 2. Crimes and Punishments

Article 3: Forming anti-State groups

1. Those who organize, or join, an anti-State group shall be punished as follows:
 1. Death or life imprisonment for the chief instigators or organizers.
 2. Death, life imprisonment or minimum five years in prison for leadership cadres.
 3. Minimum 2 years in prison for lesser members.
2. Minimum 2 years in prison for those who encourage others to join an anti-State group.
3. Those who violate [1] and [2] shall be punished.
4. Minimum 2 years for those who plan or contemplate a [1.1] or [1.2] crime.
5. Maximum 10 years in prison for those who plan or contemplate [1.3]. (Revised 91.5.31)

Article 4: Commission of anti-state acts

1. Members of an anti-State group or those who are under the influence of an anti-State organization who commit an anti-State act shall be punished as follows: (Revised 91.5.31)

1. Those who commit an act as defined by the Criminal Codes articles [92], [97], [99], [250.2], [338] or [340.2] shall be punished as set forth in the Codes.
 2. Those who commit an act as defined by the Criminal Codes article [98] or who access, gather, leak, transmit or compromise a national security secret shall be punished as follows:
 3. Death or life imprisonment if it involves a military secret or information which is critical to national security and restricted to government authorities.
 4. Death, life or minimum 7 years in prison if it involves other military or national security secret.
 5. Death, life or minimum 10 years for violating Criminal Codes [115], [119.1], [147], [148]. [164] or [169]. [177.1] or [180]. [192] or [195]. [207], [208], [210], [250.1], [252], [253], [333] or [337], [339] or [340.1, 2]
 6. Death, life or minimum 5 years in prison for destruction of public or government buildings or other structures essential for transportation, communication; abduction or seduction of officials; or theft or removal of ships, airplanes, automobiles, weapons or other materials - related to the fore-mentioned functions.
2. Minimum 3 years in prison for acts defined in the Criminal Codes [214] or [217], [257] or [259] or [262]; or theft, removal, counterfeit, alteration of state secret documents or materials.
 3. Minimum 2 years in prison for promoting or propagating acts defined in [1] or [5] or for creating or spreading false rumors aimed at causing social turmoil.

Article 5: Willful help or provision of money and materials

1. Those who on their own will aid anti-state groups or members or those who are under their control and commit acts as defined in [4.1] shall be punished as set forth in [4.1].
2. Up to 7 years in prison for accepting valuables from anti-state groups, members or those under their control knowing that their actions will endanger state security or freedom and democracy. (Revised 91.5.31).
3. [1] and [2] crimes will be punished.
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4. Minimum 10 years in prison for preparing or plotting acts defined in [1].
5. Dropped (91.5.31)

Article 6: Infiltration and escape

1. Up to 10 years in prison for those escape to or infiltrate from an area controlled by anti-state groups being aware that such acts will endanger the national security and the democratic freedom of the society. (Revised 91.5.31).
2. Death, life or minimum 5 years imprisonment for those who escape to or infiltrate in order to receive from, discuss with or execute anti-state acts for anti-state groups.

3. Dropped (91.5.31)
4. All [1] and [2] crimes will be punished. (Revised 91.5.31).
5. Up to 7 years imprisonment for those who plan or plot acts as defined in [1].

Minimum 2 years imprisonment for those who plan or plot acts as defined in [2] (Revised 91.5.31).

Article 7: Praising or sympathizing

1. Up to 7 years in prison for those who praise, encourage, disseminate or cooperate with anti-state groups, members or those under their control, being aware that such acts will endanger the national security and the democratic freedom. (Revised 91.5.31).
2. Dropped, 91.5.31.
3. Minimum of one year in prison for those who organize or join a group intending to commit acts defined in [1]. (Revised 91.5.31).
4. Minimum two years in prison for those who create or spread false information which may disturb national order as members of anti-state groups as defined in [3] (Revised 91.5.31).
5. Punishments as defined in [1], [3], or [4] for those who create, import, duplicate, possess, transport, disseminate, sell, or acquire documents, arts or other publications for the purpose of committing acts as defined in [1], [3], or [4] respectively. (Revised 91.5.31).
6. [1], [3] or [5] crimes shall be punished. (Revised 91.5.31).
7. Up to five years in prison for those who plan or plot acts defined in [3]. (Revised 91.5.31).

Article 8: Meeting, Corresponding and etc.

1. Up to 10 years in prison for those who confer, correspond, or communicate using other means with anti-state groups, members or those under their control, being aware that their acts will endanger the national security and the democratic freedom. (Revised 91.5.31).
2. Dropped 91.5.31.
3. [1] crimes shall be punished. (Revised 91.5.31).
4. Dropped 91.5.31.

Article 9: Aiding

1. Minimum five years in prison for those who knowingly provide fire arms, ammunition, explosives and other weapons to those who have committed or plan to commit acts defined in [3] or [8]. (Revised 91.5.31).
2. Up to ten years in prison for those who knowingly provide valuables or other monetary benefits or facilities for hiding, meeting, communicating, and contacting or provide other conveniences to persons who have committed or plan to commit acts defined in [3] or [8]. This punishment may be reduced or waved in cases involving family members. (Revised 91.5.31).

3. [1] and [2] suspects shall be punished.
4. Minimum one year in prison for those who plan or plot the acts defined in [1].
5. Dropped 91.5.31.

Article 10: Failure to inform

Maximum five years in prison or a fine of 2000,000 won for those who fail to inform the police or security officials of persons who have committed acts defined in [3], [4], [5.1, 3 and 4]. This punishment may be reduced or waved in the case of involving family members. (Replaced 91.5.31).

Article 11: Special duty cases

Up to 10 years in prison for security duty officials who continue in office while in contact with persons who have committed anti-state acts. This punishment may be reduced or waved in cases involving family members.

Article 12: False accusations

1. Persons who falsely accuse or falsify, hide or alter evidence to cause others to be prosecuted under this Law shall be punished as if they themselves have committed the acts.
2. Government employees, engaged in crime investigation or intelligence or those who support or direct these employees, who abuse their position to commit [12.1] acts shall be punished in accordance with [12.1] - except a minimum of two years in prison if the punishment is less than two years.

Article 13: Special provisions

The maximum penalty shall be death if a person, who has previously within the last five years committed crimes defined by this Law, the Military Criminal Codes [13], [15], or Criminal Codes [2.1] civil disorder crimes, [2] external act crimes, commits acts defined in [3.1.3] and [3.2] or [3.5], [4.1.1], Criminal Codes [94.2], [97, 99], [99.2].

Article 14: Term reductions

Terms of punishment may be reduced for self-cognition cases. (Revised 91.5.31).

Article 15: Reward confiscation

1. If a person commit a crime under this Law and collects a reward under this Law, the reward will be confiscated. If it cannot be confiscated, the prison term will be extended.
2. Prosecution may order confiscation of smuggled goods and transfer to the state treasury.

Article 16: Reduction of punishment terms

Punishment terms may be reduced or waved under one of the following conditions:

1. Voluntary surrender after the commission of a crime under this Law.

2. Persons who have committed a crime under this Law and who turn in others who have committed a crime or impeded others from committing a crime under this Law.
3. Dropped 91.5.31.

Article 17: Other applicable laws

The Labor Management Law [9] shall not apply to those who commit crimes under this Law.

Chapter 3: Special Prosecutions

Article 18: Arrest and detention of witnesses

1. Witnesses to a crime who fail to appear before a prosecutor or a police investigator when ordered more than twice without proper explanations may be arrested and detained.
2. If necessary, witnesses to a crime under this Law may be detained at a nearby police station or other appropriate location on a temporary basis.

Article 19: Extension of detention period

1. District prosecutors may grant one-time extension of a person detention period as set forth in Criminal Prosecution Codes [203] of a crime suspect of [3] or [10] if the interrogators request such an extension and present sufficient cause for said extension.
2. District prosecutors may grant up to two extensions of a person detention period as set forth in Criminal Prosecution Codes [203] of a crime suspect of [1] if the interrogators request such an extension and present sufficient cause for said extension .
3. The detention extension of [1] and [2] above shall be limited to 10 days.

Article 20: Appeals

1. The prosecution may grant appeals in accordance with the Criminal Codes [51] to those who have committed a crime under this Law.
2. [1] appeals shall be void if no action is taken in two years.
3. If a person is granted an appeal and violates rules and regulations per supervision and reporting as set by the Minister of Justice, the appeal shall be voided.
4. In case of [3] above, apparels may be re-arrested in accordance with [208] of the Criminal Codes.

Chapter 4. Rewards and Merits

Article 21: Rewards

1. Persons who inform prosecutors or security officers of or arrest a person committing a crime under this Law shall be paid a reward bonus as set by the President.

2. [1] applies as well to security officers or police officers who search and arrest criminals under this Law.
3. [1] applies to cases in which suspects are killed or commit suicide in the course of their arrest.

Article 22: Additional rewards

1. 50% of monetary value of any property confiscated in connection with Article 21 may be added to the reward earned.
2. 50% of moneys, coming from anti-state groups, members or those under their control, turned into police or security officers may be paid to persons involved. This applies equally to persons who are members of or under control of anti-state groups.
3. The President shall determine all matters of requests and distribution of rewards.

Article 23: Compensation

Those who suffer loss or death while in reporting or arresting persons who have committed acts defined by this Law shall be compensated in accordance with the presidential decrees for the martyrs or their families appropriate for former or active members of the military and security agencies. (Replaced 91.5.31).

Article 24; National Security Service Recognition Committee

1. National Security Service Recognition Committee (hereinafter referred to as the Committee) shall be established under the Justice Ministry for the purpose of ascertain and determining [2.3] bonus qualifications. (Revised 91.5.31).
2. The Committee may request the applicants' presence or investigate their request; and may request government agencies for information appropriate to the investigation.
3. The Committee's composition and administration shall be determined by the President.

Article 25: Military Criminal Code applications

If a person who has committed a crime under this Law and who is under the jurisdiction of the Military Criminal Code [2.1] provisions, the prosecutor shall be deemed to a military court prosecutor. (Revised 87.12.4).

Epilogue

Article 1: Effective date

This Law shall become effective upon its promulgation.

Article 2: Anti-Communist Law

This Law supersedes the Anti-Communist Law which is abolished, except those who committed prior acts shall be prosecuted under the Anti-Communist Law.

Article 3: Other applicable laws

1. The Social Security Law shall be modified as follows: [2.3] shall be replaced as set below and [4] shall be dropped.
2. National Security Law [3], [9], Addenda [2.3] shall be replaced by [4] and [3] shall be modified as follows.
3. [Not included in this English translation - Translator]

Article 4: Process adjustments

1. Persons convicted under the prior Criminal Code [2.2] civil disorder crimes, [3] external crimes, prior National Defense Law [32], [33], prior Coastal Defense Law [8.2], [9], prior Emergency Situation Law special detentions, Anti-Communist Law, and prior National Security Law shall be deemed convicted under Criminal Codes [2.1] internal disorder, [2] external disorder, Military Criminal Law [13], [15] or this Law.
2. Prior convictions under the Special Crime Code [6] shall be deemed convictions under this Law.
3. Punishments executed under the Anti-Communist Law or the prior National Security Law shall be deemed punishments under this Law.
4. Bonuses and rewards earned per the Anti-Communist Law prior the enactment of this Law shall be processed using this Law.

Addendum - 87.12.4

1. This Law goes into effect on February 25, 1988.
2. Dropped [2] and [4].

Addendum - 91.5.31

1. This Law goes into effect upon its promulgation.
2. Acts committed prior to the effective date of this Law shall be prosecuted under the laws existing prior to this Law.
3. Persons who have been convicted of national security law violations shall be deemed as if convicted under this Law.

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