

**Notice of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Issuing the Opinions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Certain Issues concerning the Application of Law in Handling Criminal Cases Involving Terrorism and Extremism**

Notice of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Issuing the Opinions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Certain Issues concerning the Application of Law in Handling Criminal Cases Involving Terrorism and Extremism

(No. 1 [2018] of the Supreme People's Procuratorate)

The higher people's courts, people's procuratorates, departments (bureaus) of public security, and justice departments (bureaus) of all provinces, autonomous regions and municipalities directly under the Central Government, the courts-martial and military procuratorates of the People's Liberation Army, and the Production and Construction Corps Branch of the Higher People's Court of Xinjiang Uigur Autonomous Region, and people's procuratorates, public security Bureau, justice bureau and prison administration bureau of of Xinjiang Production and Construction Corps:

In recent years, there have been new changes and new features to terrorism and extremist crimes, which have caused serious damages and major risks to the national security, social stability and the people's lives and property. For the purposes of punishing terrorism and extremist crimes according to the law, and profoundly advancing work of cracking down, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice hereby jointly issued the Opinions on Certain Issues concerning the Application of Law in Handling Criminal Cases Involving Terrorism and Extremism for your diligent compliance and implementation in light of the actual situations.

After the printing and distribution of these Opinions, [the Opinions of the Supreme People's Court, the Supreme People's Procuratorate and the Ministry of Public Security on Several Issues concerning the Application of Law in the Handling of Criminal Cases Involving Violent Terrorism and Religious Extremism](#) (No. 34 [2014] of the Ministry of Public Security) issued on September 9, 2014 shall be replaced. In the case of any discrepancy between the regulatory documents formulated before and these Opinions, these Opinions shall prevail.

Supreme People's Court

Supreme People's Procuratorate

Ministry of Public Security

Ministry of Justice

March 16, 2018

Opinions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Certain Issues concerning the Application of Law in Handling Criminal Cases Involving Terrorism and Extremism

For the purposes of punishing terrorism and extremist crimes according to the law, defending national security and social stability, and protecting life and property safety of the people, according to the [Criminal Law of the People's Republic of China](#), the [Criminal Procedure Law of the People's Republic of China](#), the [Anti-Terrorism Law of the People's Republic of China](#), and other laws and provisions, based on judicial practices, these Opinions are developed.

#### I. Accurate identification of crimes

1. Whoever falls under any of the following circumstances shall be determined to "organize or lead a terrorist organization" as described in [Article 120](#) of the [Criminal Law](#) and convicted and punished for organizing or leading a terrorist organization:

- (1) Promoting or establishing a terrorist organization.
- (2) In an established terrorist organization, responsible for decision-making, command, and management with respect to the organization and its day-to-day operations.
- (3) In an established terrorist organization, organizing, planning, and commanding the members of the organization to conduct terrorist activities.
- (4) Other circumstances of organizing or leading a terrorist organization.

Whoever falls under any of the following circumstances shall be determined to "actively participate" as described in [Article 120](#) of the [Criminal Law](#) and convicted and punished for participating in a terrorist organization:

- (1) Gathering others to jointly participate in a terrorist organization.
- (2) Participating in a terrorist organization for many times.
- (3) Used to be held criminally liable, or subject to administrative punishment within two years, for participating in a terrorist organization, or conducting terrorist activities, and participating in a terrorist organization again.
- (4) Conducting terrorist activities and playing a prominent role in a terrorist organization.
- (5) Actively assisting the organizer or leader in organization or leadership in a terrorist organization.
- (6) Other circumstances of actively participating in a terrorist organization.

Whoever participates in a terrorist organization, without falling under any of the circumstances as

provided in the preceding two paragraphs, shall be determined to "other circumstances of participating" as described in [Article 120](#) of the [Criminal Law](#) and convicted and punished for participating in a terrorist organization.

Whoever, in addition to the crime as provided in [Article 120](#) of the [Criminal Law](#), commits homicide, arson, explosion, kidnapping, robbery, or any other crime shall be convicted and punished according to the rules of the joinder of punishment for more than one crime.

2. Whoever falls under any of the following circumstances shall be convicted and punished for contributing to terrorism, in accordance with the provision of [Article 120 \(I\)](#) of the [Criminal Law](#):

(1) Raising or providing funds for a terrorist organization, an individual engaging in terrorism, or terrorist training by soliciting donations, selling properties, transferring funds, or any other means, or providing equipment, facilities, transportation, weapon, or any other supply, or providing other material facilitation.

(2) Recruiting persons for a terrorist organization, conducting terrorist activities, or terrorist training by publicity, enrollment, introduction, transportation, or any other means.

(3) Transporting persons for a terrorist organization, conducting terrorist activities, or terrorist training by providing assistance in illegal entry or exit, or providing intermediary services, transshipment, stay and accommodation, falsifying identity documents, or any other facilitation for illegal entry or exit, or serving as a guide, providing assistance in exploring the routes to illegally cross the border, or any other means.

(4) Other circumstance of funding a terrorist organization, an individual conducting terrorist activities, terrorist training, or recruiting or transporting persons for a terrorist organization, conducting terrorist activities, or terrorist training.

Individuals conducting terrorist activities shall include those who have already conducted terrorism, those who prepare for or are conducting terrorist activities, those who conduct terrorist activities within the territory of China, those who conduct terrorist activities outside thereof, Chinese citizens, foreign nationals, and stateless persons.

The subjective intent to provide assistance in the crime of terrorist activities shall be comprehensively determined, based on the specific circumstances of the case, taking into account the specific conduct, cognitive ability, consistent performance, and occupation, among others.

Whoever, having the knowledge of the income of the crime of terrorist activities and the proceeds thereof, in order to cover up and conceal its source and nature, provides an account, or assistance in the conversion of property into money, financial instruments, or securities, in transferring funds by remittance or any other settlement means, or in remitting funds abroad, shall be convicted and punished for money laundering. Whoever conspires beforehand shall be convicted and punished for joint commission of the relevant crime of terrorist activities.

3. Whoever falls under any of the following circumstances shall be convicted and punished for preparing for terrorist activities in accordance with the provision of [Article 120](#) (II) of the [Criminal Law](#):

(1) Making, purchasing, storing, or transporting weapons, flammable or explosive articles, precursor chemicals, corrosive, radioactive, infectious, or poisonous articles, or any other hazardous articles, or other tools, for conducting terrorist activities.

(2) Organizing terrorist training by teaching in person, providing training courses, setting up training camps, establishing forums, organizing the listening to and watching of audio and video materials, or any other means, or using websites, web pages, forums, blogs, microblogs, web disks, instant messaging services, communication groups, chat rooms, or other network platforms, or network application services, or actively participating in psychological and physical training for terrorist activities, or teaching or learning criminal skills and methods, or receiving terrorist training.

(3) In order to conduct terrorist activities, contacting an overseas terrorist organization or person by making a call, sending short text messages or emails, or any other means, or using websites, web pages, forums, blogs, microblogs, web disks, instant messaging services, communication groups, chat rooms, or other network platforms, or network application services.

(4) In order to conduct terrorist activities, leaving or entering the country, or organizing, planning for, inciting, or roping others in leaving or entering the country.

(5) In order to conduct terrorist activities, other circumstances of making a plan or preparations.

4. Whoever commits any of the following conduct to promote terrorism or extremism, or incite terrorist activities shall be convicted and punished for promoting terrorism or extremism, or inciting terrorist activities, in accordance with the provision of [Article 120](#) (III) of the [Criminal Law](#):

(1) Compiling, publishing, printing, reproducing, distributing, giving out, or broadcasting books, newspapers, manuscripts, pictures, or audio and video materials, which promote terrorism or extremism.

(2) Designing, producing, making, selling, leasing, transporting, consigning, delivering, giving out, or displaying signs, marks, clothes, flags, badges, objects, souvenirs, or other articles, which promote terrorism or extremist.

(3) Publishing, posting, reproducing, sending, broadcasting, or displaying books, newspapers, manuscripts, pictures, or audio and video materials, which promote terrorism or extremism, by websites, web pages, forums, blogs, microblogs, web disks, instant messaging services, communication groups, chat rooms, or other network platforms, or network application services.

(4) A founder, initiator, operator, or manager of a website, web page, forum, blog, microblog, web disk, instant messaging service, communication group, chat room, or any other network platform, or network application service, who knows that others use the said network platform, or network ap

plication service to disseminate and promote terrorism or extremism, allow or permit others to make publications after being punished by the relevant administrative departments in charge.

(5) Promoting terrorism or extremism, or inciting terrorist activities by teaching scriptures, lecturing on scriptures, construing scriptures, studying scriptures, weddings, funerals, commemorations, gatherings, cultural and sport activities, or other activities.

(6) Other conduct of promoting terrorism or extremism, or inciting terrorist activities.

5. Whoever uses extremism to commit any of the following conduct shall be convicted and punished for using extremism to undermine the implementation of the law, in accordance with the provision of [Article 120](#) (IV) of the [Criminal Law](#):

(1) Inciting or coercing people to substitute marriage or divorce registration for religious rituals, or interfering with the freedom of marriage.

(2) Inciting or coercing people to undermine the implementation of the judicial system established by the state laws.

(3) Inciting or coercing people to interfere in minors receiving compulsory education, or undermine the educational system provided by the state laws, such as the school education system and the national educational examination system.

(4) Inciting or coercing people to boycott the administration exercised by the people's government according to the law, or obstructing the performance of duties by the staff members of state organs according to the law.

(5) Inciting or coercing people to destroy statutory identity documents issued by the state, such as resident ID cards and residence booklets, or Renminbi;

(6) Inciting or coercing people to evict people of another ethnic group, or of a different religion, from their place of residence, or to interfere with the life or work of others.

(7) Other conduct of inciting or coercing people to undermine the implementation of the legal system of the state.

6. Whoever falls under any of the following circumstances shall be convicted and punished for compelling the wearing of clothes or marks promoting terrorism or extremism, in accordance with the provision of [Article 120](#) (V) of the [Criminal Law](#):

(1) Compelling another person by violence, coercion, or any other means to wear clothes or marks, promoting terrorism or extremism in a public place.

(2) Compelling another person by violence, coercion, or any other means to wear clothes or marks, bearing any word, symbol, pattern, slogan, or badge, of terrorism or extremism, in public places.

(3) Other circumstances of compelling another person to wear clothes or marks promoting terrorism or extremism.

7. Whoever is in illegal possession of books, newspapers, manuscripts, images, audio or video mat

erials, clothes, marks, or other articles, meeting the following quantitative criteria, in the knowledge that the said articles contain content of terrorism or extremism, shall be convicted and punished for illegal possession of articles promoting terrorism or extremism, in accordance with the provision of [Article 120](#) (VI) of the [Criminal Law](#):

- (1) Twenty or more books or publications, or five or more electronic books or publications.
- (2) One hundred or more newspapers, or 20 or more electronic newspapers.
- (3) One hundred or more manuscripts or images, or 20 manuscripts or images, or 500,000 characters or more electronic documents.
- (4) Twenty or more audio or video recordings such as audio tapes and video tapes, or five or more electronic audio or video materials, or 20 minutes or more electronic audio or video materials.
- (5) Twenty or more clothes or marks.

Whoever is in illegal possession of articles that promote terrorism or extremism, although not meeting the quantitative criteria provided in the preceding paragraph, and falls under any of the circumstances, such as possession for multiple times, possession of more than one type of articles, causing serious consequences or an adverse social impact, or being held criminally liable or to be subject to administrative punishment within two years for carrying out terrorist activities or committing extremist crime, may also be convicted and punished.

If articles that promote terrorism or extremism are illegally possessed for more than one time, without being dealt with, the articles shall be counted cumulatively. If illegally possessed articles that promote terrorism or extremism are of different types or of different forms, the articles may be counted cumulatively after being calculated according to the corresponding proportions between different quantitative criteria provided in the present section.

"Knowledge" with respect to the subjective intent to commit the crime of illegal possession of articles promoting terrorism or extremism shall be comprehensively examined and judged, according to the specific circumstances of the case, based on the objective conduct performed by the actor, taking into account his/her consistent performance, specific conduct, degree, means, ex-post attitude, age, cognition, education, and occupation, among others.

If an actor falls under any of the following circumstances, and is unable to make reasonable explanations, the actor may be deemed to be in the "knowledge," unless there is evidence that he/her is deceived:

- (1) Used to be held criminally liable, or to be subject to administrative punishment within two years, for conducting terrorist activities or committing extremist crime, or conducting or committing the same after being ordered to take corrective action.
- (2) When the law enforcement personnel conduct inspection, committing the conduct such as esca

ping or discarding articles carried and escaping or resisting inspection, with articles that promote terrorism or extremism found among those carried, concealed, or discarded.

(3) Making, giving out, or possessing articles that promote terrorism or extremism by camouflage, concealment, argot, gesture, code, or any other covert means.

(4) Completing consignment or delivery formalities by a false identity, address, or any other false means, with articles that promote terrorism or extremism seized among those consigned or delivered.

(5) Other circumstances with sufficient evidence that the actor should have been in the knowledge.

8. Whoever commits the crime provided in [Article 120](#) of the [Criminal Law](#) and also constituted the crime as provided in [Article 120](#) (VI) of the same shall be convicted and punished according to the provisions on harsher punishment.

Whoever commits the crime provided in [Article 120](#)(VI) of the [Criminal Law](#) and also constituted any other crime shall be convicted and punished according to the provisions on harsher punishment.

9. Terrorism, extremism, terrorist activities, and terrorist organizations shall be determined in accordance with the [Anti-Terrorism Law of the People's Republic of China](#) and other laws and regulations.

## II. Correctly applying procedure

1. Criminal cases in the first instance, involving the crime of organizing, leading, or participating in a terrorist organization, that of providing assistance in terrorist activities, that of preparing for committing terrorist activities, that of promoting terrorism or inciting terrorist activities, that of compelling the wearing of clothes or marks promoting terrorism or extremism, or that of illegal possession of articles promoting terrorism, shall be subject to the jurisdiction of intermediate people's courts; and those involving the crime of promoting extremism, the crime of using extremism to undermine the implementation of the law, that of compelling the wearing of clothes or marks promoting terrorism or extremism, or that of illegal possession of articles promoting terrorism, shall be subject to the jurisdiction of basic people's courts. A higher people's court may, in accordance with the rules of subject matter jurisdiction, based on the social security situation, the number of cases, and other situations in the region, decide to apply relatively centralized jurisdiction, designate specific intermediate people's courts within its jurisdiction to focus on the trial of criminal cases in the first instance involving terrorist activities or extremist crime, or designate specific basic people's courts within its jurisdiction to focus on the trial of criminal cases in the first instance involving extremist crime extremist, and file the designated courts list with the Supreme People's Court.

2. Where the agency leading the national anti-terrorism work determines terrorist organizations and persons engaging in terrorists and issue announcements thereon, people's courts may directly make determination according to the announcements when handling cases. If the agency leading the national anti-terrorism work makes no announcement, people's courts shall make determination in strict accordance with the definitions of terrorist organizations and terrorists in the [Anti-Terrorism Law of the People's Republic of China](#) and, if necessary, may request an opinion from the public security organs at or above the prefecture city level for reference.

3. Books, audio or video materials, clothes, marks, or other articles that promote terrorism or extremism shall be determined according to the provisions relating to terrorism and extremism in the [Anti-Terrorism Law of the People's Republic of China](#), with analysis and judgment based on the content and appearance characteristics thereof. The public security organs shall comprehensively examine and mark one by one, or take an excerpt from, the case-related articles, put forward an examination opinion, and hand it over to the people's procuratorates for examination together with the seized and handed-over articles list and the originals of the case-related articles. The people's procuratorates and the people's courts may make comprehensive examination and judgment, taking into on-record evidence, the circumstances of the case, and the experience in processing cases.

4. The electronic data collected and extracted during the initial investigation of cases involving terrorist activities and extremist crime and that extracted online may be used as evidence. Electronic data on crime involving terrorist activities or extremist crime on the original storage medium located on an overseas or remote computer information system may be extracted online. If necessary, the remote computer information system can be remotely inspected. After the case is filed, technical investigation measures may be taken with the approval of the person in charge of the public security organ at or above the level of city divided into districts. If freezing is needed by the large amount or the considerable length of the time to extract the electronic data on terrorist activities or extremist crime, among others, freezing may be made with the approval the person in charge of the public security organ or the chief procurator at or above the county level. If it is difficult to determine a specialized problem relating to the electronic data, a qualified judicial appraisal institution shall issue an appraisal opinion, or an institution designated by the Ministry of Public Security shall issue a report.

### III. Improving working mechanisms

1. People's courts, people's procuratorates and public security organs shall, when handling criminal cases involving terrorist activities or extremist crime, cooperate with and check each other, so as to ensure the effective implementation of the law. If, for a criminal case involving terrorist activities



or extremist crime with respect to which disagreement may arise on the main facts of crime, critical evidence, the application of law, or which is significant, difficult, or complex, the public security organ requests the opinions and recommendations of the people's procuratorate of competent jurisdiction, the people's procuratorate may put forward opinions and recommendations.

2. Criminal cases involving terrorist activities or extremist crime shall be generally subject to the jurisdiction of the public security organs in the place of crime, but if it is more appropriate for the public security organs in the place of residence of the criminal suspect to have jurisdiction, the public security organs in the place of residence of the criminal suspect shall have jurisdiction. For a case to be transferred, a file shall be made, and the case file, extracted physical evidence, and seized articles shall be transferred together with the case. The public security organ that transfers the case shall assign a special person to cooperate with the public security organ receiving the case in the subsequent handling of the case.

3. People's courts, people's procuratorates and public security organs shall, when handling criminal cases involving terrorist activities or extremist crime, adhere to treating case-related persons differently and apply education and transformation. For a person who is instigated, coerced, tempted to participate in terrorist or extremist activities, or falls under minor circumstances with respect to participating in terrorist or extremist activities, and does not constitute a crime, the public security organ shall organize the relevant departments, villagers' committee or neighborhood committee, his/her employer or school, family, and guardians to help and educate him/her. For a terrorist criminal or extremist criminal sentenced to fixed-term imprisonment or above, the intermediate people's court in the place where the sentence is served shall make a decision before the expiration of his/her sentence on whether to provide placement and education, according to the results of the assessment of the danger posed to society by him/her and recommendations for placement and education. The people's procuratorate shall supervise the placement and education according to the law and, if there are illegal acts in the process of placement and education, put forward corrective action opinions or procuratorial recommendations in a timely manner.

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