Anti-Organized Crime Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted in accordance with the Constitution for the purposes of preventing and punishing organized crime, strengthening and standardizing anti-organized crime work, safeguarding

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national security and social order, and protecting the lawful rights and interests of citizens and organizations.

Article 2 — "Organized crime" as used in this Law means the crimes of organizing, leading or participating in an organization of a criminal nature as stipulated in Article 294 of the Criminal Law of the People's Republic of China, as well as crimes committed by an organization of a criminal nature or by a mafia-like organization.

"Mafia-like organization" as used in this Law means a criminal organization that simultaneously possesses the characteristics of a relatively stable organizational structure, a relatively large number of members, a relatively clear organizer or leader, and relatively fixed backbone members; obtaining economic benefits through organized illegal or criminal activities, or through other means, and possessing a certain economic strength to support the activities of the organization; having committed organized illegal or criminal activities multiple times by means of violence, threat or other means, committing acts of oppression and cruelty to the masses; and having gained dominance in a certain region or industry by committing illegal or criminal activities, or taking advantage of the shielding or connivance of state functionaries, thereby seriously undermining economic and social order.

Article 3 — Anti-organized crime work shall adhere to the overall national security concept, combine punishment and prevention, combine special campaigns and regular work, and combine specialized organs with the mass line. Comprehensive measures shall be adopted, such as law-based crackdown, prevention and governance, system construction, and legal education.

Article 4 — Anti-organized crime work shall be conducted in accordance with the law, with respect for and protection of human rights, and safeguard of the lawful rights and interests of citizens and organizations.

Article 5 — The State shall impose severe punishment on those who organize, lead or participate in organized crime in accordance with the law. Anyone who has committed organized crime shall be subject to criminal liability in accordance with the law.

Where state functionaries organize, lead or participate in organized crime, they shall be subject to heavier punishment in accordance with the law.

Article 6 — The State encourages entities and individuals to report organized criminal activities. Entities and individuals that have rendered meritorious service in anti-organized crime work shall be commended and rewarded in accordance with the relevant provisions of the State.

Chapter II — Prevention and Governance

Article 7 — Public security organs, judicial organs, and relevant departments shall, in accordance with the division of duties, establish and improve mechanisms for the prevention and governance of organized crime, and shall carry out publicity, education, risk assessment and regular screening for organized crime.

Article 8 — The people's governments at all levels and the relevant departments shall, in accordance with the law, organize and carry out publicity and education on anti-organized crime, incorporate anti-organized crime into the legal education system, and enhance the awareness and ability of citizens to resist organized crime.

News media, radio, television, newspapers, the internet and other media shall carry out public-interest publicity on anti-organized crime.

Article 9 — The departments of education, human resources and social security, and schools shall strengthen anti-organized crime publicity and education, enhance students' awareness of preventing organized crime, and educate students to consciously resist organized crime and prevent infringement by organized crime.

Schools shall establish a working mechanism to prevent organized crime from infiltrating campuses and shall promptly stop organized crime activities within schools.

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Article 10 — Market regulatory authorities, financial regulatory authorities, natural resources regulatory authorities, transportation authorities and other departments with market access and industry regulatory functions shall strictly review market access in industries prone to organized crime such as construction, transportation, mining and natural resources.

Article 11 — Telecom operators and internet service providers shall, in accordance with the law, implement network security measures, prevent content containing organized crime from being produced or disseminated, and promptly stop such content upon discovery, keep relevant records, and report to the relevant departments.

Article 12 — Public security organs shall, in conjunction with relevant industry regulatory authorities, establish and improve a regular screening mechanism for organized crime in key industries such as construction, transportation, mining and natural resources.

Article 13 — Village (resident) committees, enterprises, public institutions and social organizations shall assist the relevant departments in carrying out anti-organized crime work.

Article 14 — Public security organs, people's procuratorates and people's courts shall, in the course of handling cases, take measures in accordance with the law to prevent the persons concerned from colluding to give statements, destroying or falsifying evidence, or transferring assets involved in the case.

Chapter III — Case Handling

Article 15 — Public security organs, people's procuratorates and people's courts shall, in accordance with the law, file, investigate, prosecute and try cases of organized crime. The handling of organized crime cases shall be conducted in strict accordance with the legally prescribed procedures, with accurate determination of the nature of the case, correct application of the law, and no leniency for the guilty and no injustice for the innocent.

Article 16 — Public security organs may, as needed for case handling, take technical investigation measures against organized crime cases in accordance with the law.

Article 17 — Where a criminal suspect or defendant in an organized crime case applies to recuse himself or herself, or applies for the recusal of a judge, prosecutor or investigator, the recusal shall be handled in accordance with the law.

Article 18 — Where necessary for the investigation of an organized crime case, the investigation personnel may, with the approval of the person in charge of the public security organ at or above the level of a city divided into districts, conduct controlled delivery of the persons suspected of organized crime and the articles related to the case.

Article 19 — Investigators in organized crime cases shall, in accordance with the provisions, interrogate criminal suspects and defendants, and inquire of witnesses, victims and other relevant persons. Witnesses and victims shall be protected in accordance with the law.

Article 20 — Where the organizer or leader of an organization of a criminal nature is sentenced to criminal punishment for the crime of organizing or leading an organization of a criminal nature, or the ringleader of a mafia-like organization is sentenced for organized crime, they shall be subject to a heavier punishment in accordance with the law.

Article 21 — Criminal suspects and defendants in organized crime cases shall not be granted bail pending trial or residential surveillance in accordance with the law, with the exception of those who suffer from serious illness and are unable to take care of themselves, or those who are pregnant or breastfeeding their own infants.

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Article 22 — The trial of organized crime cases shall be conducted by a collegial panel in accordance with the law. Where the trial is conducted by a collegial panel, the panel shall hear the opinions of the people's assessors.

Article 23 — Where any of the following circumstances exists in an organized crime case, the sentence may be commuted in accordance with the law:

(1) Voluntarily surrendering and truthfully confessing the facts of the crime;

(2) Rendering meritorious service by exposing others' crimes, which have been verified to be true, or providing important clues that lead to the solving of other cases;

(3) Voluntarily handing over the illegal gains and ill-gotten gains from organized criminal activities before the judgment.

Article 24 — Key members of organized crime who are sentenced to death with a two-year reprieve may, after the expiration of the two-year reprieve period, be commuted to life imprisonment in accordance with the law, and may not be further commuted or released on parole.

Chapter IV — Identification and Disposal of Assets Involved in Cases

Article 25 — In handling organized crime cases, public security organs, people's procuratorates and people's courts shall, in accordance with the law, comprehensively investigate the assets of the criminal suspects and defendants and the assets related to organized crime, and shall inquire about, seal up, detain or freeze the assets involved in the case.

Article 26 — Assets proven to be illegal gains, fruits and instrumentalities derived from organized criminal activities shall be recovered or ordered to be returned or compensated in accordance with the law.

Article 27 — Where it is verified that the assets are illegally obtained by a criminal suspect or defendant through organized criminal activities or other illegal acts, but it is difficult to distinguish them from the legitimate property of the criminal suspect or defendant, the court may, in accordance with the law, rule that such part of the assets be recovered or ordered to be returned or compensated in the same proportion as the illegal assets to the total assets.

Article 28 — Where a criminal suspect or defendant in an organized crime case is at large and cannot be brought to the case within one year, the illegally obtained assets shall be recovered in accordance with the provisions of the Criminal Procedure Law on the procedure for the trial of illegal gains in absentia.

Article 29 — Where the property of a criminal suspect or defendant of organized crime is insufficient to satisfy the total amount of the property penalty and the civil compensation liability, the civil compensation shall be satisfied first.

Article 30 — Where a criminal suspect or defendant of organized crime conceals or transfers assets, the public security organ, people's procuratorate and people's court may, in accordance with the law, take measures to preserve assets and investigate the criminal liability of the relevant persons.

Chapter V — Handling of State Functionaries Involved in Organized Crime

Article 31 — State functionaries who commit any of the following acts shall be subject to comprehensive investigation and shall be dealt with in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law:

(1) Organizing, leading or participating in organized crime;

(2) Shielding an organization of a criminal nature, or conniving at the illegal or criminal activities of an organization of a criminal nature;

(3) Contacting or colluding with an organization of a criminal nature or its members in the course of performing their duties, and providing information and convenience for the organization or its members;

(4) Interfering with the investigation of organized crime cases in the course of performing their duties;

(5) Obstructing the handling of organized crime cases by taking advantage of their position or the influence derived from their authority or position;

(6) Committing other acts involving organized crime.

Article 32 — Where state functionaries or the relevant personnel of state organs are found to be involved in organized crime or providing protection for organized crime, the supervisory authority, the people's procuratorate and the public security organ shall transfer the clues in a timely manner and handle them in accordance with the law.

Article 33 — Where a state functionary is convicted of organized crime by an effective judgment, the relevant authorities shall impose sanctions in accordance with the relevant provisions.

Article 34 — Where a public official or a state functionary has a spouse, child, parent or other close relative who is a member of an organization of a criminal nature, a mafia-like organization, or a criminal group, and fails to truthfully report the matter in accordance with the provisions, sanctions shall be imposed in accordance with the law.

Chapter VI — International Cooperation

Article 35 — The State shall strengthen international exchange and cooperation in anti-organized crime. The relevant state authorities may, in accordance with the provisions of the laws of the People's Republic of China or the international treaties concluded or acceded to by the People's Republic of China, conduct criminal judicial assistance, extradition and other international cooperation with foreign countries.

Article 36 — Public security organs, people's procuratorates and people's courts may, in accordance with the provisions, conduct international cooperation in anti-organized crime through diplomatic channels or in accordance with international treaties and agreements.

Article 37 — Chinese citizens who have committed organized crime outside the territory of the People's Republic of China shall be subject to the criminal jurisdiction of the People's Republic of China in accordance with the law, unless the crime is punishable by a maximum penalty of not more than three years of imprisonment under the Criminal Law.

Article 38 — Where a criminal suspect or defendant of organized crime has fled abroad, the public security organ may apply for the issuance of a red notice in accordance with the law, and may apply to the relevant foreign authorities for extradition or repatriation.

Chapter VII — Safeguard Measures

Article 39 — The State shall provide corresponding guarantee for anti-organized crime work in terms of institutions, personnel and funds, and shall include the relevant expenses in the government budget.

Article 40 — Public security organs and other relevant departments shall, in accordance with the law, take protective measures for the following persons and their close relatives who face the risk of retaliation due to their reporting, exposure, testimony or participation in anti-organized crime work:

(1) Whistleblowers, complainants, and accusers;

(2) Witnesses, victims and experts;

(3) Personnel who participate in anti-organized crime work;

(4) Personnel who assist in anti-organized crime work.

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Article 41 — Protective measures that may be taken for the persons specified in the preceding Article include:

(1) Not disclosing their true names, addresses, work units and other personal information;

(2) Prohibiting specific persons from contacting the protected persons and their close relatives;

(3) Taking special protective measures for their persons and residences;

(4) Other necessary protective measures.

Article 42 — Anti-organized crime work personnel shall maintain the confidentiality of state secrets, trade secrets and personal privacy known in the course of performing their duties.

Chapter VIII — Legal Liability

Article 43 — Entities and individuals that commit any of the following acts, which do not constitute a crime, shall be penalized by the public security organ in accordance with the law:

(1) Refusing to provide or obstructing the provision of information related to organized crime;

(2) Refusing to cooperate with or obstructing the lawful anti-organized crime work;

(3) Retaliating against whistleblowers, witnesses or other relevant persons.

Article 44 — Where state functionaries or the relevant personnel of state organs commit any of the following acts in anti-organized crime work, sanctions shall be imposed in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law:

(1) Failing to perform anti-organized crime duties in accordance with the law;

(2) Committing fraud or malpractice for personal gain in anti-organized crime work;

(3) Divulging the information of whistleblowers, witnesses or other relevant persons;

(4) Illegally sealing up, detaining or freezing assets involved in cases, or illegally handling assets involved in cases;

(5) Other acts of abusing power, dereliction of duty or malpractice for personal gain.

Article 45 — Those who refuse to perform their anti-organized crime obligations in accordance with the law, or who refuse to provide assistance to the public security organs in their anti-organized crime work, and thereby cause serious consequences, shall be investigated for liability in accordance with the law.

Chapter IX — Supplementary Provisions

Article 46 — This Law shall apply mutatis mutandis to the fight against and punishment of illegal and criminal activities carried out by extremist organizations and cult organizations.

Article 47 — This Law shall enter into force on May 1, 2022.

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