

Law No. 17-95, amending Law No. 50-88 (1) of the Dominican Republic on Drugs and Controlled Substances

THE NATIONAL CONGRESS

In the name of the Republic

Law no. 17-95

HAS ENACTED THE FOLLOWING LAW:

Article 1.

Article 5 of Law 50-88, on Drugs and Controlled Substances of the Dominican Republic, is amended to read as follows:

In the case of cocaine, the magnitude of each case submitted for prosecution will be determined in accordance with the following scale:

1. When the quantity of the drug does not exceed one (1) gramme, it will be regarded as mere possession, and the indicted person or persons will be classified as recreational users. If the quantity is more than one (1) gramme, but less than five (5) grammes, the indicted person or persons will be classified as distributors. If the quantity exceeds five (5) grammes, the indicted person or persons will be regarded as traffickers.
2. A person shall not be regarded as a recreational user if the drug he is carrying is intended for distribution or sale, whatever its quantity; in such a case, the indicted person shall be regarded as a distributor or vendor."

Article 2.

A paragraph c) is added to Article 6 of Law 50-88 on Drugs and Controlled Substances of the Dominican Republic, to read as follows:

"c) A person will not be regarded as a recreational user if the drug he or she is carrying is intended for distribution or sale, whatever the quantity; in this case, the person prosecuted will be treated as a distributor or vendor."

Article 3.

The paragraph to Article 53 of Law 50-88, on Drugs and Controlled Substances of the Dominican Republic, shall be amended to read as follows:

Paragraph.

This commission shall reach a verdict and make a recommendation to the court dealing with the case as to whether to the indicted person should be sent to a public or

specialized centre for the purpose of detoxication, rehabilitation and social readjustment, or whether he or she should be prosecuted."

Article 4.

A paragraph is added to Article 54 of Law 50-88, on Drugs and Controlled Substances of the Dominican Republic, altering the existing paragraphs I and II to paragraphs II and III.

" Paragraph I.

The court dealing with the case shall be empowered to grant a period of fifteen (15) days to the Multidisciplinary Commission to submit its report on the state of addiction of the accused. person"

Article 5.

Article 63 of Law 50-88 on Drugs and Controlled Substances of the Dominican Republic is deleted, because it contradicts other articles of the same law, especially Article 75.

Article 6.

The paragraph to Article 76 of Law 50-88 on Drugs and Controlled Substances is amended to read as follows:

"PARAGRAPH.

The National Drugs Council shall administer and distribute the funds in the following manner:

1. 15% for institutions dedicated to the rehabilitation of drug addicts;
2. 15% to the Ministry of Sport, Physical Education and Recreation, for the practice of sport;
3. 40% for the National Drug Control Directorate, to be used in accordance with to its needs;
4. 20% for the National Drugs Council, for drug prevention and education;
5. 10% for the National Association for Aid to Civilian Fire Brigades, to be distributed equally among the brigades."

Article 7.

Article 80 of Law 50-88 on Drugs and Controlled Substances is amended to read as follows:

In the event of a breach of this Law, searches may be made at any hour of the day or night, with a written order stating the reason for the search, issued by the Public Prosecutor or Prosecutor of the appropriate Court, or by the Attorney General of the Republic, in the presence of a representative of the Public Ministry".

Article 8.

Article 92 of Law 50-88 on Drugs and Controlled Substances in the Dominican Republic is amended to read as follows:

"Article 92.

Drugs confiscated for breaches of this Law must be destroyed, but their quality and degree of purity must first be analysed and tested."

Destruction must take place in the capital of the Republic, in the presence of a representative of the Public Ministry, the Ministry of Public Health and Social Welfare, the Dominican Medical Association, the National Drug Control Directorate and the National Drugs Council, access being granted by invitation to the press and the public in general, and a record being made and signed by the representatives of the aforementioned institutions, to whom a copy of the document shall be given."

Article 9.

The following articles, on criminal procedure, are added to Law 50-88 on Drugs and Controlled Substances in the Dominican Republic:

"Article 97.

Criminal proceedings for the offences and crimes defined in this Law will be governed, as regards evidence, by the provisions of the following articles, and subsidiarily by the Code of Criminal Procedure."

"Article 98.

Analysis of a confiscated substance shall be carried out in the presence of a representative of the Public Ministry specialized in chemical analysis."

Article 10.

The following articles, on the offence of laundering assets related to illicit traffic in drugs, and related offences in the Dominican Republic, are added to Law 50-88:

"Article 99.

A person who knowingly, by omission or commission, converts or transfers goods obtained from an offence of illicit trafficking in controlled drugs or related offences covered by this Law, will be punished by imprisonment of two (2) to five (5) years and a fine of RD\$50,000 (fifty thousand pesos at 00/100) to RD\$100,000 (one hundred thousand pesos at 00/100)."

"Article 100.

Any person who acquires, possesses, transfers, holds or uses goods knowing that these goods are the proceeds of illicit traffic in controlled drugs or related offences covered by this Law, will be punished by imprisonment of two (2) to five (5) years and a fine of RD\$50,000 (fifty thousand pesos) to RD\$100,000 (one hundred thousand pesos)."

"Article 101.

Any person who knowingly hides, conceals, or prevents detection of the nature, origin, location, destination, movement or ownership of goods or rights relating to property which has resulted from an offence of illicit drug trafficking or related offences covered in this law, will be punished by detention of two (2) to five (5) years and fines of RD\$50,000 (fifty thousand pesos) to RD\$100,000 (one hundred thousand pesos)."

" Paragraph:

For the purpose of this Law, related offences are the actions or activities defined in Articles 99, 100 and 101, intended to facilitate money laundering."

"Article 102.

When two or more persons join together to participate in committing the acts contemplated or sanctioned in articles 100 and 101 of this Law, each of them will be punished by imprisonment of three (3) to ten (10) years and a fine of RD\$100,000 (one hundred thousand pesos) to RD\$250,000 (two hundred and fifty thousand pesos)".

"Article 103.

In all cases, attempted commission of the offences referred to above will be punished in the same manner as the crime itself."

"Article 104.

Financial institutions which, with the knowledge of their governing organs or of the persons with authority to direct their policies and operations, deliberately violate the provisions of articles 99, 100, 101 and 102, and any other provisions of this Law, regardless of any criminal responsibility on the part of the persons responsible for the offences of illicit drug trafficking, shall be punished by a fine of RD\$100,000 (one hundred thousand gold pesos) to RD\$250,000 (two hundred and fifty thousand gold pesos). When the case warrants it, the competent court shall recommend to the Monetary Board, via the Banking Superintendent, the cancellation of the licence under which the activities of the institution responsible are carried on. Employees, officials, directors and other authorized representatives who, acting in that capacity, deliberately violate the provisions of the legal texts referred to above, shall bear the same penalty."

"Article 105.

The court dealing with a case of money laundering may at any time, without notification or prior hearing, make an order for confiscation or provisional freezing of funds, for the

purpose of preserving the availability of the goods, products or instruments related to the illicit traffic and other related offences covered in this Law."

"Paragraph I.

Financial institutions which surrender funds under this clause shall be exempt from liability towards persons affected solely by the surrender to the authorities of the funds seized"

"Paragraph II.

Goods which have been seized or confiscated by the National Drug Control Directorate shall pass immediately, under inventory, to the custody and care of the National Drugs Council, until a final judgment is made having the force of *res judicata*."

"Article 106.

All goods, products or instruments connected with an offence of illicit traffic or related offences shall be confiscated, and if they cannot be confiscated because of some act or omission on the part of the convicted person, the court shall order confiscation of other goods of equal value belonging to the convicted person, and shall order the payment of a fine to that amount."

"Article 107.

The competent court shall order the handing over of the goods, products or instruments to a claimant acting in good faith, provided he has a legitimate legal interest and that no fault or indirect participation in an offence of illicit drug trafficking or related offences can be imputed to him."

"Article 108.

In the case of goods or instruments confiscated under a final and irrevocable judgment which are not to be destroyed, the National Drugs Council shall arrange for their sale at public auction and shall award them to the highest bidder and final auctioneer. The funds obtained by this means shall be distributed in accordance with the provisions of the Paragraph to Article 76."

"Article 109.

Financial institutions shall be bound to supply to the courts, to the National Drug Control Directorate and to the security organs of the State, via the Banking Superintendent, within the shortest possible time, any information required in relation to the commission of the offences referred to in articles 99, 101, 102, 103 and 104, and any others contained in this Law."

"Paragraph I.

Financial and credit institutions, firms which transport funds or shipping firms which are not regulated by the governing organs of the financial sector, shall provide the information requested by the court, the competent authority or the National Drug Control Directorate, through the tax administration in the shortest possible time."

"Paragraph II.

A breach of this article shall be sanctioned by the penalties and fines laid down in Article 104 of this law."

"Article 110.

The competent court shall cooperate with the competent court of another State with a view to providing mutual assistance in related cases of illicit trafficking, within the limits of their respective jurisdiction and the standards of international law."

"Article 111.

The competent court may receive a request from a court or competent authority in another State to identify, detect, seize or confiscate goods, products or instruments related to an offence of illicit trafficking or related offences, and may take the necessary steps, including those indicated in this Law, provided the request

is accompanied by a court order or judgment issued by the authority and in accordance with the legal norms of the Dominican Republic and of international law."

"Article 112.

The court may receive or take appropriate steps concerning a request by a court or competent authority of another State to provide assistance in relation to an investigation or criminal proceedings dealing with an offence of illicit trafficking or related offences."

"Article 113.

Legal provisions relating to banking secrecy or confidentiality shall not constitute an impediment to compliance with this Law when the information is requested by a competent court through the governing organs of the financial sector."

"Article 114.

A person who knowingly, acting alone or through an intermediary, discloses information or betrays its confidentiality, for the purpose of evading investigation by the competent authority relating to the offences of money laundering, shall be punished by imprisonment of two (2) to five (5) years and a fine of RD\$10,000 (ten thousand gold pesos) to RD\$50,000 (fifty thousand gold pesos)."

"Article 115.

Movable or immovable property which is leased or sold conditionally by a natural or legal person accredited in the country in which it is used in committing an offence of illicit drug trafficking shall not be subject to seizure for the purpose of confiscation, unless the competent authority proves the existence of a delictual connection between the owner of the property and the person who hires or sells it."

"Article 116.

(Transitional). This Law will enter into force jointly with the Regulation on implementation and execution provided by Article 94 of Law 50-88, concerning Drugs and Controlled Substances in the Dominican Republic."

GIVEN in the Hall of Sessions of the Senate, Palace of the National Congress, at Santo Domingo de Guzman, National District, Capital of the Dominican Republic, on the nineteenth day of September of the year one thousand nine hundred and ninety five, the 152nd year of independence and the 133rd year of the Restoration.

	Amables Aristy Castro,	
	President,	
Rafael Octavio Silverio,		Milagros Ortiz Bosh,
Secretary.		Secretary ad hoc.

GIVEN in the Hall of Sessions of the Chamber of Deputies, Palace of the National Congress, in Santo Domingo Guzman, National District, Capital of the Dominican Republic, on the thirteenth day of September of the year one thousand nine hundred and ninety five, in the 152nd year of independence and the 133rd year of the Restoration.

	Jose Ramon Fadul Fadul,	
	President.	
L. Altagracia Guzman Marcelino,		Nelson de Js. Sanchez Vasquez,
Secretary.		Secretary.

JOAQUIN BALAGUER
President of the Dominican Republic
In exercise of the functions conferred on me by Article 55 of the Constitution of the Republic,

I PROMULGATE this Law and order it to be published in the Official Gazette for public information and observance.

GIVEN in Santo Domingo de Guzman, National District, Capital of the Dominican Republic, on the seventeenth (17) day of December of the year one thousand nine hundred and ninety five; the 152nd year of independence and the 133rd year of the Restoration.

Joaquin Balaguer