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Legislation Pertaining To Terrorism

The Counter-Terrorism Act establishes legal and institutional frameworks for counter-terrorism efforts, provides for coordination between the affected State agencies, and sets out rights and duties for agencies and citizens. The Act defines terrorism as “the commission of or threat to commit activities intended to cause massive loss of life, injuries to persons or other harm to their health, or destruction of (or damage to) their property or other serious consequences with the aim of undermining public security, spreading panic among the population or forcing State authorities to take decisions that comply with the demands of the terrorists.”

The Criminal Code of 2000 provides for criminal liability for “serious or very serious crimes” and defines terrorism as “the causing of an explosion or arson or the commission of other acts that endanger the lives of people, cause significant damages to property or other serious consequences, if such acts are committed with the aim of undermining public security, terrorizing people or pressuring the authorities to take decisions to comply with the perpetrator’s demands, or threatening to commit these acts for such ends.” The Criminal Code establishes related crimes such as hostage-taking, “hijacking an aircraft, sea vessel or railway train,” “illegal manufacture of weapons,” “misappropriation or extortion of weapons, ammunition, explosive substances or explosive devices,” and the “establishment of military formations or groups that are not provided for in legislation.”

Participation, commission and planning of terrorist acts, even if the acts were not completed, will be prosecuted and punished. Extradition is available according to existing extradition treaties. The Penal Code also allows for prosecution and sentencing of foreign nationals and stateless persons for crimes against peace or humanity, terrorism, aircraft hijacking and other crimes in accordance with international law regardless of the location of the crime (universal jurisdiction). Amnesty is available to repentant participants in the planning of terrorist acts, who notify the authority or prevent the act, if they have not committed any other crime.

“[T]he use of the territory of Azerbaijan to commit terrorist [acts] against other States is prohibited.” The commission or planning of a terrorist act and participation in the planning or commission are criminal offenses. Perpetrators will be tried and punished or extradited for trial, wherever they committed or planned the act. Azerbaijan gives early warnings and shares information about intentions of persons or groups to commit terrorist acts against other States from any location. Azerbaijani law enforcement agencies engage in operational, intelligence and detection activities and investigate existing information on the use of the country’s territory to commit terrorist acts across the borders. They cooperate with their foreign counter-parts.

The government is considering to draft of a new law on counter-terrorism that would cover various measures to fight terrorism such as suppressing the financing of terrorism, granting legal assistance to other countries, protecting persons who assist in the fight against terrorism, extradition, and more. In particular, measures to end the financing of terrorism will affect the national finance and banking laws by allowing the uncovering and freezing of funds that may be used in support of terrorist acts. A draft for a specific act to deal with money laundering is also being considered. In accordance with the International Convention for the Suppression of the Financing of Terrorism, Azerbaijan’s Code on Administrative Violations may be amended to create administrative liability (in addition to criminal and civil liability). The Act on Extradition of Criminals of 2001 ensures that all criminals and terrorists are brought to justice. It does away with the political crimes exception for terrorist acts. It also provides that terrorists that cannot be extradited on the basis of other legislation can be prosecuted under the Criminal Code of Azerbaijan. International crimes and terrorist acts are treated under the maxim “either extradite or send for trial” (*aut dedere aut judicare*).

Controlling Weapons and Explosives

The Act on Official and Civilian Weapons governs movement of military and civilian light weapons, firearms and ammunition. "Movement of weapons" includes "manufacture, import, export, sale, transfer to another person, acquisition, collection, exhibiting, stocktaking, storage, carrying, transport, use, conveyance, withdrawal and destruction of weapons." The responsible state bodies are the Ministry of the Interior and the State Centre for Standardization and Metrology. International trade involving weapons and military technology and components for their production, gunpowder, explosive substances and devices, nuclear materials, technology, equipment and installations, specific non-nuclear materials and radioactive materials such as nuclear waste is under the direct authority of the Cabinet of Ministers. No such articles may be exported on credit or by consignment.

The Criminal Code establishes criminal liability for the "unlawful acquisition, transfer, sale, storage, transport or carrying of firearms of components thereof, ammunition, explosive substances and explosive devices." Other activities may require a special license from the Ministry of Defence: manufacture or repair of war materiel such as weapons and ammunition, means of defense, military equipment and components and the elimination of unserviceable military technology and ammunition (by burial, conversion or other). The licensing procedures begin with an application to the Cabinet of Ministers, which then passes on this application for verification purposes. Usually, the Ministries of Defence, of National Security, of the Interior, of Health, of the Environment and Natural Resources, the State Committee for the Maintenance of Security in Industry and Mines and the Academy of Sciences, as well as other research and state institutions, review applications. If they give a positive response, the Cabinet may issue a license as requested. Illegal exports or manufacture of weapons entails criminal liability under the Code.

For the import of weapons, suppliers must be authorized government organizations. Importers must be enterprises authorized to manufacture, sell or buy weapons, and the goods have to be certified and registered, as do weapons produced in Azerbaijan. The State Centre for Standardization and Metrology issues certificates, which permit the circulation of weapons within the country, upon satisfaction of the requirements for light weapons and firearms.

Azerbaijan is a party to the Convention on the Marketing of Plastic Explosives for the Purpose of Detection (1991), and to the Document of the OSCE on Small Arms and Light Weapons (2000). In addition, Azerbaijan cooperates on issues of small arms and light weapons with member states of the Euro-Atlantic Partnership Council/Partnership for Peace.

"Azerbaijan does not manufacture, import or export nuclear, chemical or bacteriological weapons." It is a party to various international conventions, amongst others the Treaty on the Non-Proliferation of Nuclear Weapons (1968), the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (1992), and the Comprehensive Nuclear-Test-Ban Treaty (1996).

Counter-Terrorism Measures

A number of "strict precautionary, intelligence and detection measures" are now in place to protect vital and sensitive installations such as pipelines and reservoirs, terminals, communications, water resources, arms and ammunition depots, radioactive and toxic substances, airports, seaports, shipyards and wharves, embassies, international organizations, foreign enterprises and religious sites.

Since 1996, efforts to fight international terrorism have intensified, so that all law-enforcement agencies use the necessary measures to identify, arrest and prosecute those suspected to participate in terrorist acts in some way. Measures used include increased border controls and protection, the suppression of illegal immigration and the deportation of illegal immigrants, stricter passport controls and registration procedures, as well as the monitoring of temporary and permanent residents, intensified passport controls at border crossings, and use of a computerized system to register arrivals and departures. A special supplemental plan is to

facilitate the identification and detection of members of international terrorist organizations and groups of transnational and trans-regional crime, as well as persons related to those or “likely to engage in criminal activities or religious extremism.” The national police forces are under instructions to implement this plan. Meanwhile, the Ministries of Internal Affairs and State Security have drafted a plan to join forces in an intensified fight against terrorism that contain plans for security operations involving security agencies.

The State civil airline Azerbaijan Airlines is currently implementing security measures to increase controls of flight security, and the use of Azerbaijani airspace and airports. The Civil Aviation Security Directorate has entered into service agreements with leading foreign airlines (for example Lufthansa) and as a result engages in operations to identify persons who try to use false documents to transit through Azerbaijan.

International Cooperation

Azerbaijan is a party to eight of the 12 international conventions on counter-terrorism, with partial incorporation into national law, and a signatory to nine European conventions on crime, terrorism and money laundering, with procedures to ratify them under way. It is being considered to become a party to those counter-terrorism conventions to which Azerbaijan has not yet acceded.

The Ministry of National Security is committed to cooperate in the area of counter-terrorism. If Azerbaijan has information as to a possible terrorist attack against another State, it would transmit it along with an offer of assistance to the relevant foreign authorities. Cooperation with foreign government bodies is based on bilateral and multilateral agreements. The CIS ministries of the interior have agreed to collaborate against terrorism. A similar protocol exists between the Ministry of National Security and the Federal Security Service of the Russian Federation on cooperation in combating international terrorism. Other agreements exist between the security agencies of Azerbaijan and of Belarus, Ukraine, Moldova, Georgia, Kyrgyzstan, Kazakhstan, Uzbekistan, Turkmenistan, Tajikistan, Egypt and of Turkey. As a result, there is active cooperation between the Ministry of the Interior and other states’ police forces, which covers a range of organizational and practical measures to prevent the Republic’s territory from being used as a transit point for illegal drugs, arms, explosives, and radioactive substances.

The GUUAM group (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova) has established guidelines and areas of cooperation, for example to prevent the use of transport corridors for terrorist, extremist and criminal purposes, to combat international terrorism and organized crime, to prevent illegal trading in weapons, combating drug trafficking, to counter illegal migration, to prevent the illegal spread of dual-use technology, and to refine the information sharing system between customs services.

Where no treaty exists, the Act on Legal Assistance in Criminal Matters delineates a procedure to request such aid, and international law gives guidance as to existing practice. The appropriate body of a foreign state has to request legal assistance from the Ministry of Justice by indicating the name of that authority, the name of the entity carrying out the investigations, inquiry or prosecution in the case, the object and content of the request, the nature of the crime, describing the facts and classification of the offense along with the relevant text of the foreign country’s criminal law, and the full name and residence information of the person that is being investigated or prosecuted. The Ministry of Justice may request additional information as necessary.

Financing of Terrorism and Freezing Assets

The “willful financing of a terrorist organization or terrorist groups” or other support constitutes complicity in a terrorist act for which criminal liability applies. Since Azerbaijan’s accession to the International Convention for the Suppression of Financing of Terrorism

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Convention, this international treaty is officially in force as part of the Republic's law and specifically its legislation on counter-terrorism.

Finances are under the supervision of the Ministries of Finance and Taxation and the National Bank. The National Bank now requires all other banks to report any suspicious transactions and to identify bank accounts owned by persons connected with international terrorism. The National Bank has also suggested to amend existing legislation that restricts imports of foreign currency to prevent the "circulation of funds from unknown or illicit sources." There are also efforts to implement international guidelines to make sure that the national financial system is not abused to fund crime or terrorism or to launder money.

Natural and legal persons are required by law to report any suspicious transactions to the relevant authorities. Failure to inform of the planning or the commission of grave crimes or willful concealment of such crimes is punishable under the Criminal Code. Financial entities have to report any available information about contracts entered into by persons or organizations listed as terrorists or terrorist groups by the UN Security Council to the State. Law enforcement agencies have the necessary powers to obtain information in this regard under the Act on Investigative Activities.

A court order and compliance with established procedures are required to freeze funds and assets belonging to legal and natural persons and deposited in financial institutions. The National Bank then shares this information with law enforcement and relevant branches of the Ministry of National Security. The National Bank also orders all other banks to implement a court order in this regard. Upon issuance of a court order, the bank or credit institute has to halt all current operations involving the specified assets in the amount of the sum to be frozen. Once the court order has force of law, confiscation of the funds or assets can ensue. The seizure of property is possible in order to ensure that a civil action can be initiated. In criminal cases, property can be confiscated if there are grounds to do so.

BIBLIOGRAPHY OF AZERBAIJANI LAWS

Legislation pertaining to terrorism

1. Counter-Terrorism Act (1999), Chapter III, and Articles 1, 2, 4, 6, 17, 19, 21, and promulgating Decree (1999)
2. Criminal Code, Articles 12, 12.3, 31-34, 214, 215, 216, 219, 229, 232, 277, 279
3. Constitution of the Republic of Azerbaijan, Articles 148, 151
4. Act on Extradition of Criminals (2001)
5. Counter-Terrorism Act, Articles 17, 21

Weapons and explosives

1. Act on Official and Civilian Weapons (1997)
2. Presidential Decree (1998) (putting into force the Act on Official and Civilian Weapons)
3. Criminal Code, Articles 206, 228-232, 279
4. Presidential Decree No. 637 (1997)
5. Regulations on import and export operations, paragraph 7.1
6. Presidential Decree No. 609 (1997) (approving the regulations on import and export activities)
7. several accession acts (omitted)

International Cooperation

1. Act on Accession to the International Convention for the Suppression of the Financing of Terrorism (2001)
2. Legislative Decree on Adoption of the Act on Accession to the International Convention for the Suppression of the Financing of Terrorism (2001)
3. Statute of the Counter-Terrorism Centre of the States members of the CIS, paragraph 2.4
4. Ratification (in 1995) of the Convention on legal assistance and legal relations in civil, family and criminal matters (1993) (articles 5, 56, 57, 58)
5. Act on the Extradition of Offenders (2001)
6. various accession acts

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1. Act on Banks and Banking Activities (1996)
2. Presidential Decree No. 818 (2001)
3. Act on Normative Legal Acts (1999), Article 3.4
4. Criminal Code, Articles 307, 308, 314
5. Notaries Act, Article 42
6. Act on Investigative Activities
7. Currency Regulation Act
8. Code of Criminal Procedure
9. Decree No. 25 (1998)
10. Decision No. 95 (1998)
11. Decree No. 013 (2002)