

(b) the extent to which a specified Convention or Protocol State had, at specified times, extended its jurisdiction under Article 6(2) of the Convention or Article 3(2) of the Protocol;

(c) that specified waters were, at a specified time:

(i) within the internal waters or territorial sea, or above the continental shelf, of Australia or of a specified foreign country; or

(ii) beyond the territorial sea of Australia and of any foreign country;

is, for the purposes of any proceedings under this Act, evidence of the facts stated in the certificate.

#### *Section 38 of the Judiciary Act*

33. A matter arising under this Act, including a question of interpretation of the Convention or Protocol for the purposes of this Act, is, for the purposes of section 38 of the Judiciary Act 1903, taken not to be a matter arising directly under a treaty.

### III. AUSTRIA<sup>9</sup>

#### 1. SUMMARY OF AUSTRIAN LEGISLATION ON TERRORISM<sup>10</sup>

Austrian criminal law does not define terrorism and does not provide for specific provisions relating to terrorism. Terrorist acts are subject to the general provisions of the criminal law. Namely the following provisions of the Strafgesetzbuch (Criminal Code) are of relevance for the prosecution of terrorist acts:

§ 75 - *Murder*: Whoever kills another person is to be punished by imprisonment for 10 to 20 years or for life.

§ 102 *Abduction for extortion*: Whoever abducts another person without his consent or after having obtained his consent by threat or deception with the aim of coercing a third person to act or refrain from acting is to be punished by imprisonment for 10 to 20 years (in qualified cases 10 to 20 years or lifetime imprisonment).

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<sup>9</sup> Transmitted to the Secretariat by that Government on 26 July 1999.

<sup>10</sup> Other relevant provisions are found in the Code of Criminal Procedure (Strafprozessordnung); the Law on Extradition and Mutual Judicial Assistance (Auslieferungsgesetz und Rechtshilfegesetz) and the Security Police Law (Sicherheitspolizeigesetz).

§ 173 - *Intentional endangering by explosives*: Whosoever by using explosives causes a danger to life and limb or of a large amount of property of another person is to be punished by imprisonment for 1 to 10 years (in qualified cases 10 to 20 years or lifetime imprisonment).

§ 185 - *Air piracy*: Whosoever takes or exerts control over an aircraft by profiting from the special conditions of air traffic and by using violence or threat against a person on board an aircraft or against a person in a position to influence the route or the security of the aircraft is to be punished by imprisonment for 1 to 10 years (in qualified cases 10 to 20 years or lifetime imprisonment).

§ 186 - *Intentional endangering of the security of air traffic*: Whosoever creates a danger for an aircraft in flight by using violence or threats against a person on board an aircraft, by damaging the aircraft or by damaging air traffic installations is to be punished by imprisonment for 10 to 20 years (in qualified cases 10 to 20 years or lifetime imprisonment).

§§ 249 - 251 - *Assaulting supreme representatives of the State*: Whosoever undertakes to coerce the federal president, or the federal parliament, the federal government, a state parliament, a state government, the constitutional court, the administrative court, the supreme court or a member of these institutions or the president or the vice president of the court of auditors by violence or threat to act or refrain from acting is to be punished by imprisonment for 1 to 10 years.

§ 277 - *Criminal conspiracy*: Whosoever conspires with another person to commit jointly an act of murder, abduction for extortion, intentional endangering by explosives, air piracy, intentional endangering of the security of air traffic is to be punished by imprisonment from 6 months to 5 years.

§ 278 - *Criminal gang*: Whosoever unites with two or more other persons with the intention that one or more members of this union commit repeatedly acts of murder or other serious acts of violence against life and limb, abduction for extortion, intentional endangering by explosives, air piracy, intentional endangering of the security of air traffic [...] or not just minor acts of damaging property is to be punished by imprisonment for up to 3 years.

§ 278a - *Criminal organization*: Whosoever acts as a founder or a participating member of an association, which is structured like an enterprise and established over a period of time, consists of a large number of persons, aims at large-scale enrichment or achieving significant influence over the economy or politics through the repeated and premeditated commission of serious crimes against life and limb, freedom or property [...] and attempts to intimidate or corrupt others or to protect itself in a specific manner against law enforcement measures is to be punished by imprisonment from 6 months to 5 years.

§ 279 - *Armed organization*: Whosoever founds without authorization an organization which is armed or designed to be armed or participates in a leading

position, arms, equipments, trains, finances or supports such an organization is to be punished by imprisonment of up to 3 years.

§ 280 - *Amassing of combat equipment*: Whosoever acquires, possesses or hands over to another person weapons, ammunitions or other combat equipment to equip a large number of persons for combat is to be punished by imprisonment for up to 3 years.

## IV. AZERBAIJAN<sup>11</sup>

### 1. LAW OF THE REPUBLIC OF AZERBAIJAN ON COMBATING TERRORISM<sup>12</sup>

This Law defines the legal and organizational bases for combating terrorism in the Republic of Azerbaijan, coordinates the activities of the State agencies that combat terrorism and also lays down the rights and obligations of these agencies and of citizens.

#### CHAPTER I

#### GENERAL PROVISIONS

##### *Article 1. Basic concepts*

The following concepts are used in this Law:

“Terrorism”: the commission of acts or the threat to commit acts causing the mass destruction of human beings, the infliction on them of physical injury or other harm to their health, or the destruction (damage) of property or other serious consequences for the purposes of infringing public security, creating panic among the population or forcing State government agencies to take decisions that are in the interests of terrorists;

“Terrorist”: a person who participates in the carrying out of terrorist activities in any form;

“Terrorist group”: an association of two or more persons whose purpose is to carry out terrorist activities;

“Terrorist organization”: an organization which is established in order to carry out terrorist activities or which regards the use of terrorism in its activities as a possibility. If one of its structural units is engaged in terrorist activities with the

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<sup>11</sup> Transmitted to the Secretariat by that Government on 16 May 2000.

<sup>12</sup> Signed by the President of the Republic of Azerbaijan on 18 June 1999.