

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.

consent of an administrative body of that organization, the organization is deemed a terrorist organization;

“Combating terrorism”: activities linked to the detection and prevention of terrorist activities or to minimizing the damage that may result from terrorism;

“Anti-terrorism operations”: special measures carried out in order to prevent terrorist acts, ensure the security of individuals, disarm and neutralize terrorists, and also minimize the damage which may result from terrorist acts;

“Anti-terrorism operation zone”: the specific land areas or separate water areas, vehicles, buildings, edifices, dwellings and adjacent land or water areas where operations are conducted;

“Terrorist activities”: activities linked to the organization, planning, preparation and carrying out of terrorist acts, violence directed against individuals or legal entities in order to create terror by destroying or damaging material objects; the setting up of illegal armed units or criminal groups in order to carry out terrorist acts and also participation in such acts; the recruiting, arming, training and using of persons to commit terrorist acts; the deliberate financing of terrorist organizations or terrorist groups; or providing them with other assistance;

“International terrorist activities”: activities which are carried out by terrorists or terrorist organizations in the territory of several States, or activities linked to a crime which may damage the interests of several States and is carried out by a person against a citizen of any State in the territory of the State of which he is a citizen or of another State, in cases where the terrorists and the persons subjected to terrorism are citizens of the same State or different States, outside the territory of that State.

#### *Article 2. Legislation on combating terrorism*

The legislation on combating terrorism consists of the Constitution of the Republic of Azerbaijan, inter-State treaties to which the Republic of Azerbaijan is a party, this Law and other legislative instruments of the Republic of Azerbaijan.

#### *Article 3. Objective of combating terrorism*

Measures to combat terrorism in the Republic of Azerbaijan shall be carried out for the following purposes:

1. Ensuring human rights and freedoms and the security of society and the State;
2. Detecting and preventing terrorism and minimizing the possible damage resulting from terrorism;

3. Identifying and eliminating the causes and conditions that give rise to terrorism.

*Article 4. Basic principles for combating terrorism*

Combating terrorism in the Republic of Azerbaijan shall be based on the following principles:

1. Ensuring legality;
2. The inevitability of the punishment provided for under the legislation of the Republic of Azerbaijan for carrying out terrorist activities;
3. Coordination of overt and covert methods in combating terrorism;
4. Integrated use of legal, political, socio-economic, organizational and preventive measures;
5. The priority of protecting the rights of persons exposed to danger as a result of terrorist activities;
6. Autonomy in managing the forces assigned to anti-terrorism operations;
7. Minimal publicity in identifying personnel participating in anti-terrorism operations, as well as the technical means and tactics used for such purposes.

CHAPTER II

ORGANIZATION OF MEASURES TO COMBAT TERRORISM

CONDUCTING ANTI-TERRORISM OPERATIONS

*Article 5. Agencies engaged in combating terrorism*

The relevant agency of the executive authorities of the Republic of Azerbaijan shall provide the necessary forces and means to combat terrorism and shall play the leading role in combating terrorism.

Other relevant agencies of the executive authorities of the Republic of Azerbaijan shall, within the limits of their powers, participate in combating terrorism in accordance with this Law.

**Article 6. Provision of assistance to State agencies engaged in combating terrorism**

State and local self-government bodies, regardless of the form of ownership, organizations, public associations, officials and citizens shall be obliged to assist the State agencies engaged in combating terrorism.

Every person shall be obliged to provide law enforcement agencies with information and reports on occurrences which may assist in detecting and preventing terrorism and minimizing the damage that may result from such activities.

*Article 7. Leadership of anti-terrorism operations*

In order to ensure the direct and unified leadership of anti-terrorism operations, an operational headquarters for managing anti-terrorism operations shall be set up (hereinafter referred to as the operational headquarters) and a headquarters chief shall be appointed through a decision by the relevant agency of the executive authorities depending on the nature of the operations, where necessary on a temporary basis (for the period in which operations against terrorist acts are conducted).

The procedures governing the activities of the operational headquarters shall be established through rules adopted by the relevant agency of the executive authorities.

Personnel assigned to anti-terrorism operations - servicemen, employees and specialists - shall be subordinate to the operational headquarters chief as of the commencement of such operations.

The operational headquarters chief shall determine the operational zone and the specific nature of the anti-terrorism operation and shall also take decisions concerning the use of the forces and equipment assigned for this purpose.

The operational headquarters chief shall take all other decisions, including decisions restricting the rights of officials and citizens in order to ensure, on a partial and temporary basis, their security in the anti-terrorism operation zone.

Instructions from the operational headquarters chief must be carried out without fail by all officials and citizens in the anti-terrorism operation zone.

During anti-terrorism operations, no one may interfere in the actions taken by the headquarters chief or countermand a decision taken by him, except the head of the relevant agency of the executive authorities who has established the headquarters.

*Article 8. Provision of forces and equipment for anti-terrorism operations*

In order to conduct anti-terrorism operations, the operational headquarters shall use the necessary forces and equipment at the disposal of the relevant agencies of the executive authorities engaged in combating terrorism.

*Article 9. Legal regime for the anti-terrorism operation zone*

In the anti-terrorism operation zone, the persons conducting such operations shall have the following rights:

1. Where necessary, the right to use measures which temporarily restrict or prohibit the movement of vehicles and pedestrians on streets and roads, to prevent vehicles from entering specific areas and sites, and to prohibit the towing of vehicles;
2. The right to check the identity documents of citizens and officials and, in the absence of such documents, to detain such persons for three days in order to establish their identity;
3. The right to detain persons who have committed acts designed to impede fulfillment of the lawful requests of persons conducting anti-terrorism operations and to transfer them to the relevant agency of the executive authorities;
4. If, while detaining persons suspected of committing terrorist acts, in the course of preventing such acts postponing these actions constitutes a real threat to the lives and health of persons, the right to enter the apartments and other residences of citizens, their land plots, and at the site, buildings and vehicles of organizations and public associations regardless of the form of ownership in the manner established under the legislation of the Republic of Azerbaijan;
5. Upon entering or leaving the anti-terrorism operation zone, the right to search citizens, with or without the use of technical equipment and in the manner established under the legislation of the Republic of Azerbaijan, and to inspect their effects, vehicles and objects located in vehicles, except for the vehicles of diplomatic missions or consulates;
6. The right to use, for official purposes, communication equipment and vehicles belonging to citizens, organizations and public associations, regardless of the form of property ownership, except for the communication equipment and vehicles of diplomatic missions or consulates.

The activities of employees of the mass information media in the anti-terrorism operation zone shall be determined by the operative headquarters chief.

*Article 10. Conducting negotiations with terrorists*

Negotiations may be conducted with terrorists in order to determine the possibilities for protecting the lives and health of people and material objects and preventing terrorists acts.

Only persons authorized by the operational headquarters chief may conduct negotiations with terrorists.

During negotiations with terrorists, the handing over of any person against his will to terrorists, the carrying out of political demands, or the provision of weapons and other equipment whose use would create a danger for the lives and health of people shall, as a condition for halting terrorist acts, be prohibited.

The conducting of negotiations with terrorists may not be grounds for absolving them from liability for actions committed, as provided for under the legislation of the Republic of Azerbaijan.

*Article 11. Informing the public about terrorist acts*

During anti-terrorism operations, the public shall be informed about terrorist acts in the manner and to the extent determined by the operational headquarters chief or a representative of the operational headquarters responsible for public information.

The following information may not be disseminated:

1. Information on the tactics and technical means used in conducting anti-terrorism operations;
2. Information on intelligence which may create a danger for the lives and health of people in or outside the anti-terrorism operation zone or impede the conduct of such operations;
3. Information designed to justify or propagandize terrorism;
4. Information on persons participating in anti-terrorism operations or assisting the conduct of such operations.

*Article 12. Completion of anti-terrorism operations*

An anti-terrorism operation shall be deemed completed when the terrorist act has been prevented and the danger threatening the lives and health of the people in the anti-terrorism operation zone has been eliminated.

The operations headquarters chief shall issue a statement about the completion of the anti-terrorism operation.

## CHAPTER III

### COMPENSATION FOR DAMAGE RESULTING FROM TERRORIST ACTS. LEGAL AND SOCIAL PROTECTION OF PERSONS INVOLVED IN COMBATING TERRORISM.

#### *Article 13. Compensation for damage resulting from terrorist acts and the social rehabilitation of victims*

Damage to the property of individuals and legal entities resulting from terrorist acts shall be fully compensated through funds from the State budget, and subsequently the sum in question shall be recovered from the guilty parties.

The social rehabilitation of persons who have incurred damage as a result of terrorist acts shall consist in providing these persons with legal, psychological, medical and professional assistance as well as employment and housing.

The social rehabilitation of persons who have incurred damage as a result of terrorist acts as well as those provided for under article 14 of this Law shall be carried out through funds from the State budget.

The procedure for carrying out the social rehabilitation of persons who have incurred damage as a result of terrorist acts shall be determined by the relevant agency of the executive authorities of the Republic of Azerbaijan.

#### *Article 14. Legal and social protection of persons engaged in combating terrorism*

Persons engaged in combating terrorism shall be protected by the State. Legal and social protection measures shall be applied with regard to the following persons:

1. Employees of the relevant agency of the executive authority who are directly involved in combating terrorism;
2. Persons who assist, on a permanent or temporary basis, in preventing or detecting terrorist activities and in minimizing the damage which may result from such activities;
3. The persons referred to in paragraphs 1 and 2 of this article if, when they discharge their official duties, their relatives or close relations of their relatives incur damage to their health or property.

Damage caused to the health or property of persons engaged in combating terrorism shall be compensated in the manner provided for under the legislation of the Republic of Azerbaijan.

If a person engaged in combating terrorism is killed (or dies) during anti-terrorism operations, his family and dependents shall receive, through funds from the State budget, a one-time assistance grant equivalent to a sum that is 100 times the person's average monthly salary, and subsequently this sum shall be recovered from the guilty parties.

If during the anti-terrorism operation, a person engaged in combating terrorism is disabled, wounded, shell-shocked or injured in such a way as to prevent him from continuing to serve, he shall receive, through funds from the State budget, a one-time assistance grant equivalent to a sum that is 90 times his average monthly salary, and subsequently this sum shall be recovered from the guilty parties.

*Article 15. Immunity from liability for damage caused*

Damage to the lives, health or property of terrorists during anti-terrorism operations shall be permitted in the manner provided for under the legislation of the Republic of Azerbaijan. Persons engaged in combating terrorism shall not incur liability for such damage caused during anti-terrorism operations.

*Article 16. Preferential calculation of years of service*

In determining pensions for employees of the relevant agencies of the executive authorities who have served in units directly engaged in combating terrorism, the years of service shall be calculated by making one day of service equivalent to two days of service, and the period of participation in anti-terrorism operations shall be calculated by making one day of service equivalent to three days of service.

## CHAPTER IV

### LIABILITY FOR PARTICIPATION IN TERRORIST ACTIVITIES

*Article 17. Liability for participation in terrorist activities*

Persons who participate in terrorist activities shall incur liability in the manner provided for under legislation of the Republic of Azerbaijan.

In keeping with the interests of ensuring human rights and freedoms, State security and international security, persons who commit terrorist acts or participate in the commission of such acts, regardless of the place where those acts are planned or carried out, shall, on the basis of the legislation of the Republic of Azerbaijan and the inter-State treaties to which the Republic of Azerbaijan is a party, be criminally prosecuted and punished or may be extradited to a foreign State for criminal prosecution or for serving the sentence imposed.



*Article 18. Hearing of cases linked to terrorist activities*

In accordance with the legislation of the Republic of Azerbaijan, offences linked to terrorist activities and also cases involving compensation for damage resulting from terrorist acts may, through a decision by a court (judge), be considered in a closed judicial hearing.

*Article 19. Liability of organizations for terrorist activities*

An organization (its branches or offices) operating in the territory of the Republic of Azerbaijan may be disbanded for links to terrorist activities through a court decision in the manner established under the legislation of the Republic of Azerbaijan.

In disbanding an organization whose links to terrorist activities have been established in accordance with the legislation of the Republic of Azerbaijan, property belonging to it shall be confiscated and transferred to State ownership in accordance with the legislation of the Republic of Azerbaijan.

## CHAPTER V

### FINAL PROVISIONS

*Article 20. Monitoring the legality of measures to combat terrorism*

The legality of measures to combat terrorism shall be monitored by the General Prosecutor of the Republic of Azerbaijan and his subordinate prosecutors.

The General Prosecutor of the Republic of Azerbaijan and his subordinate prosecutors shall file notice in a court instituting proceedings against an organization for terrorist activities.

*Article 21. International cooperation in combating terrorism*

The Republic of Azerbaijan shall, on the basis of the inter-State treaties to which it is a party, cooperate with foreign States and their law enforcement agencies in combating terrorism and also with international organizations engaged in combating terrorism.

*Article 22. Liability for violations of this Law*

Officials and citizens shall incur liability for violations of this Law in the manner provided for under the legislation of the Republic of Azerbaijan.