

(2) Against an order under para. 1 the person concerned and the public prosecutor are entitled to lodge an appeal to the superior court within 14 days. The appeal has to be served on the opposing party with the instruction that a counter-statement may be filed within 14 days.

## IX. AZERBAIJAN<sup>26</sup>

### SUMMARY OF LEGISLATION OF AZERBAIJAN RELATED TO TERRORISM

#### (a) Constitutional Provisions

Under articles 148 and 151 of the Constitution of the Republic of Azerbaijan, international treaties to which Azerbaijan is a party constitute an integral part of the legislative system of Azerbaijan and in the event of any conflict between the country's normative legal acts and those international treaties, the norms embodied in the international treaties shall apply.

#### (b) Counter-Terrorism Act

The legislation of the Republic of Azerbaijan in the field of counter-terrorism has been brought into line with international legal instruments and is currently being further refined. The most significant domestic legal standard in this field is the Counter-Terrorism Act of the Republic of Azerbaijan of 18 June 1999. A decree promulgating the act was issued on 30 August 1999.

*The Counter-Terrorism Act* establishes the legal and institutional groundwork for counter-terrorism efforts in Azerbaijan, coordinates the action of State agencies engaged in counter-terrorism and sets out the rights and duties of such agencies and of citizens.<sup>27</sup>

#### (c) Criminal Code

Criminal liability for terrorism is also provided for in art. 214 on terrorism and art. 277 on attempts on the life of a State or public figure (terrorist act) of the *Criminal Code of the Republic of Azerbaijan of 2000*. The offences

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<sup>26</sup> Transmitted to the Secretariat by that Government on 27 December 2001 (S/2001/1325, annex), on 9 September 2002 (S/2002/1022, annex), and on 6 November 2003 (S/2003/1085, annex). Information was also provided in respect of the *Act of the Republic of Azerbaijan on the Status of Refugees and Forcibly (Internally) Displaced Persons* of 8 July 1999, *Act of the Republic of Azerbaijan on Grants* of 17 April 1998, and *Act of the Republic of Azerbaijan on Non-Governmental Organizations (Voluntary Associations and Funds)*.

<sup>27</sup> The text of the Counter-Terrorism Act is reproduced in Part 1 of the present publication, (ST/LEG/SER.B/22) pp. 72-80.

enumerated in these articles constitute serious or very serious crimes depending on their nature and the degree of public danger which they entail.

Article 214 of the *Criminal Code* also defines “Terrorism” and the “Financing of Terrorism.”

The following penalties are established in respect of the commission of the criminal acts specified in article 214 “Terrorism” and article 214-1 “The financing of terrorism” of the *Criminal Code*:

Under article 214 “Terrorism” of the *Criminal Code*:

“Terrorism ... is punishable by deprivation of freedom for a period of 8 to 12 years with the confiscation of property.

214.2 If those acts:

214.2.1 were committed by a group of persons who had previously entered into an agreement or by an organized group or criminal association (criminal organization);

214.2.2 were repeated offences;

214.2.3 were committed with the use of firearms and objects used as weapons;

214.2.4 through carelessness led to the death of people or other serious consequences — they are punishable by deprivation of freedom for a period of from 10 to 15 years or to life imprisonment with confiscation of property.

A person who has participated in the preparation of a terrorist activity shall be relieved of responsibility in the event that he warns the authorities in good time or by some other means helps to prevent such an act, provided that his activities include no other criminal offence”.

Under article 214-1 “Financing of terrorism” of the *Criminal Code*:

“The financing of terrorism ... is punishable by deprivation of freedom for a period of from 8 to 12 years with confiscation of property.”

Pursuant to the *Criminal Code*, the author of such a crime is any physical person of sound mind who has attained the age of 14 years by the time of committing the crime. Persons who have committed or have participated in the commission of terrorist acts, wherever such acts may have been planned or committed, are brought to trial and sentenced in accordance with the law of the

Republic of Azerbaijan, and, under treaties concluded by Azerbaijan with other States, may be extradited to a foreign State to stand trial or to serve their appointed sentence.

In accordance with article 12.3 of the *Criminal Code*, foreign nationals and stateless persons who have committed crimes against peace or humanity or who have been involved in terrorism, the hijacking of an aircraft, the taking of hostages, attacks on persons or organizations enjoying international protection — or other crimes punishable in accordance with international agreements to which Azerbaijan is a party — are to be tried and punished, irrespective of the location of the crime. However, it should be noted that, in accordance with the note appended to article 214 of the *Criminal Code*, criminal liability may be waived if a person who has participated in planning an act of terrorism gives timely warning to the authorities or who enables by some other means the prevention of the act in question, and providing that person has committed no other crime.

In addition to terrorism, the *Criminal Code* establishes the following types of crime:

- “*Hostage-taking*” – art. 215;
- “*Hijacking an aircraft, sea vessel or railway train*” – art. 219;
- “*Illegal manufacture of weapons*” – art. 229;
- “*Misappropriation or extortion of weapons, ammunition, explosive substances or explosive devices*” – art. 232;
- “*Establishment of military formations or groups that are not provided for in legislation*” – art. 279.

The special provisions of the *Criminal Code* (articles 31-34) that deal with the conceptions, types of participation and responsibility of those who participate preclude the legal possibility on the part of such persons of evading responsibility. The criminal legislation of Azerbaijan defines participators as those who commit, organize or instigate crimes or serve as accomplices in their commission, whatever the circumstances may be regarding the persons who have financed terrorism.

The question of a person participating in a terrorist act against a public or government agent (article 277 of the *Criminal Code*) is resolved in the same way as in the case of a person participating in any other crime specified in the *Criminal Code* of the Republic, insofar as the provisions on such participation are identical.

It is clear from the above that the absence of any special article in the *Criminal Code* establishing criminal liability for the financing of terrorism does not exempt persons guilty of such acts from criminal liability.

On the basis of article 12.1 of the *Criminal Code*, citizens of Azerbaijan and permanent residents of Azerbaijan who are stateless and who commit crimes beyond the borders of Azerbaijan are subject to criminal liability under the Criminal Code of Azerbaijan, if such acts are considered a crime in Azerbaijan and in the State in whose territory the act was committed, and if such persons have not been tried in the foreign State.

Article 12.3 of the *Criminal Code* states that foreign nationals and stateless persons who commit such crimes as terrorism, the hijacking of aircraft, the seizure of hostages, the illegal diversion of narcotic drugs and psychotropic substances, the production or sale of counterfeit money or securities, attacks against persons or organizations enjoying international protection, and other crimes the liability for which flows from the international agreements concluded by Azerbaijan, are subject to criminal liability and punishment in accordance with the Criminal Code of Azerbaijan, without regard to the place where the crimes were committed.

As is seen from the foregoing, the criminal legislation in force in the Republic provides the necessary legal basis for the trial and sentencing of criminals for actions involving the financing of terrorism. Moreover, these provisions also exclude the possibility of the granting of asylum to such persons or the use of the territory of Azerbaijan for the commission of terrorist acts.

## X. BAHAMAS<sup>28</sup>

### 1. SUPPRESSION OF THE TAKING OF HOSTAGES ACT

#### *Arrangement of sections*

#### SECTION.

1. Short title.
2. Interpretation.
3. Crime of hostage-taking.
4. Crime of hostage-taking within the Extradition Act and the Fugitive Offenders Act.
5. Crime of hostage-taking deemed to be included in extradition treaties.
6. Surrender of offenders.
7. Restrictions on surrender of offenders.
8. Attorney-General's consent to prosecutions.
9. Evidence.

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<sup>28</sup> Transmitted to the Secretariat by that Government on 10 June 2002 and 4 April 2003. Information was also provided in respect of: the Penal Code; the Airports (Security Measures) Protected Persons Act; the Explosive Substances (Illegal use and possession) Act; the Explosives Act; the Firearms Act; and the Proceeds of Crime Act.