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COUNCIL OF EUROPE



Implemented
by the Council of Europe

“

s t a n d a r d s i n A r m e n i a ”

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A B ⁵ + + ³ the Project "Support i
% % + in Armenia",
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• Violence concept y f i c a h t e n f l u a n t e p h s e e
and is rather different from the notio
* # 1 9

• "Theft" % % # +

"without compensation" # when \$ +
+ !

* % # * + ! #
\$ % \$ + % + * +
% # + +

* how "theft" is generally
straight forward definition might be s

⁵B * A \$ * % 7 + * % 0 + ! # * B
3) . %

- “Blackmail” term “disgraceful information”
 Moreover, the emphasis on the information
 whether or not the “disgraceful information”
 continuous basis” is in essence the same as “ongoing”
 “Vulnerable condition” abuse” could lead to arguments and rules

There is a certain circularity in the definition
 reference to “criminal law”
 the latter’s provisions

The need to use the term “criminal legislation”
 could be avoided if the term “Criminal Law”
 to be replaced by “those norms”.

4!
 !”

2 paragraph 3 to "a continuous
58 be an "ongoing offence", which certainly
%

3! " !"

.4 3 !
;" " + + , 2 % %
% # % + - such as the absence of
effect" in paragraph 4 !

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.5 ! #
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However, the reference to the "da apne ros of ne nwe ho" hi
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% - # % - + % #
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+ # . ' ,! 2! 0
+ # +

i < * !+!* + * ! 23? 5* 2 ' ;
presumption of innocence where a court decision order
" ' on Extradition: + "\$ *
" 1 + # " +
" r" (emphasis added).

+ + % % * #
+ #!

2The appropriateness of a victim's complaint
"

.9 -
4! of "crime" ! A * e term "culpab
! A * %
\$ + definition of "an Act" in Article

5It would be more straightforward to define
under one of the provisions* of this Code"
% ' ;!

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;! # + # %
% # # %
% + % + * % * % % %
' # % # #
% ! %

!6 # # # # %
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* % # #
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@ % * % \$ + ,
* % #* # % +

, !! 1 5 !"

1. ## 6 #
, ! #
Part of the Draft Code defining features
#of this Code".

< * !+!* \$ " ! , , 2 ? * (& ! , 452? * ; A #

, However, the Special Part does not deal with the general subject "additional subjects" to the

! 8 % # + %
% + %% # %
% but since the term "spec
' 2 * !

,,!

5 3 # "
,2! + % + % + % #
' + % % !

,4!

< 1
,5 Paragraph 1 is really superfluous as it is
% % +
d by "guilt".

,3!

12 3 " ! = !
! ! " #
, (\$ / % * * \$ + +
, ; ! % # \$ + + + + !
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* # + % !

2 ! # % + " % %
++ + % + 3 ; ' . 0 3

2 !

1 : & \$, / >

Such as a "pedagogue" in Article 290(3).

2 ! + 4 # % % + !% +
- * 3 # % % + %
The paragraphs in the latter provision al
&) !

2,8 %
+ + * *
% &) !

22! "
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24! + , + 5
" % % % % #
are present. The former refers to an unsp
o \$ he objective factors of "
" objective" and "subjective" factors.

25B % %
+ % - !!* # + #
as a result of the latter's
+ % ' , !

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6 6 " !

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' # + #
" # #! - * +
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4 ! + 2 + %

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= >* ! ,24;? * 2 A ! ; ;2? * 3 < % 4 "

%, %, +, +, ' , a belief should be "reasonable" and n

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4 4 !

4 5 !

4 3 A

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, ' 1 % #
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- * " + , 1 #
+ # # + ! #

57 > & 6 ! " ! " , & /
% + + , # ' , 4 + +
\$, 4 + +

+ issue of criminal liability where damage has been inflicted to legally protected interests by means of physical or mental influence which did not deprive the person of the possibility to control his or her actions. Certainly, it would not really provide helpful guidance for the courts as to how to proceed in such cases and it would be better to state clearly when liability should be imposed in these cases.

! 5

5: # \$
+ , - \$ + - 1 #
% \$! 8 % *
2 i s t o b e f o l l o w e d , t h e b r e a c h s h o u l d h
% !

* + # + # %
" n e g l i g e n t l y " b s u t d o a n l e s o " w i h l e f r u e l l t y h " i s #
+ " + !

4;!

"

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"

"wilfully" inflicting damage.

. <

4 !

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order or instruction having an "illegal n
"issued in a due manner" while # he s
the person giving "an illegal order or in

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any damage must be the consequence # f act i
law" % + ' 2 !

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a r e p a r t o f a " c r i m i

o r g a n i s a t i o n", e t c . T h e f o r m u l a t i o n o % t h

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54!

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55! % \$ * % † - *
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during detention or "during conditional r
53! * % \$ % # # + %
% % + % %
% + \$ %
!

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provides that they can b% unDœ rtaRœ n "wit
under paragraph 9 in "case of evasion fro
!%- ** % %
1 % + * \$ \$ +
! %

5 B * * + " +
being that of "the inmate" and there is n
% % %
!\$

3 ! \$ 1
r e p l a c e " i n m a t o r " " l o y n v a f c f t æ n d o r e r s o n "
75 (! " "
3 ! # % + % % + #
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,
of the crime rather than the previous for

" + % + \$ " %
" @ 1 % * , ! * " has noted theC s p
cle 4. Paragraph 3 is not intended to "limit"
but to "delimit" the very content of that right, for
"forced or compulsory labour" (a b o n a s' c o n s i d e r o' i n m e. 'T t h r i a s v a i
+ * + , # * + + + * #
what is normal in the# ordinary > c o u l r , 3 2 4 o f * a 3 f (a # r s " * ;
! < + % % % - @ & # + ; . ! 0 * !
8500/79, 14 Decem\$er 1979 that: " # *
% # " % E \$ # 1 E
. ! 86 D ! (, # * ' % * . 00
1 . 8 + * ' ; *
!(c) (i) x'è m p t i o n i n t h e I L O C o n v e n t i o n i s s u b j e c t t o

t t h e d i s p o s a l o f p r i v a t e i n d i v i d u a l s , c o m p a n i e s o r

% + + +
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 ! + * %
 1 o o s e n e s s o f " d e p e n d i n g o n " c o u l d l e a d t o
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 ") + , , 0 %
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 + * ! + ! * " + \$ +
 # ' 2 4 + #!
 3 2 ! \$!

. 9 & 3 " !
 3 4 ! % % + % +
 + # !

3 5 ! * i n c l u s i o n i n p a r a g r a p h 1 (7) o f " c o n
 d i t i o n o f l a w f u l n e s s o f t h e c i r c u m s t a n c e
 # - % + * ! + ! * ' , , , 2
 &) # 5 + # #
 + # 1 % !
 % + 3 + % !

3 3 !
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 9 1 3 " !
 3 ; ! % + #
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2 < M a s r i v . " t h e f o r m e r Y u g o s l a v 5 R e p u b l i c o f M a k e d o n
 4 < & \$ \$ = > \$ " ! 2 5 ; 3 ? * 2 @ # 4 !
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 @ # ! ,

3 !

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; ! ++ + % + .30 !

; This provides that "committing the crime
* + * *
fanaticism". This # % 1 %
ommission against Racism and Intolerance'
1 % ++ +

; !- * + .30 \$ +
% # % % < % " % \$

mentioned in any of the characteristics l #
++ + ;+! % " #
@ % ! * + +
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< 9 & ! C' 3 9:
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; 2! # + + % + %
% + + \$ #

; + + ! % \$ # + %
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+ % !

; * "Treating violence and brutality with a di
+ #
% + ! ' % \$ #
% # unjustified treatment irreconcilable with
= > * ! 3, ,4? * A # 4* ! 53! 8 * %
% + " + #
% ++ + % %%
+ + % + !
\$ +0 * !(+!* 0 22;5 ? 2* 3 (# 0
& ! ,452? * ; A # , . %

;4!

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D 7 2 C 9 2 3 " = 3 8 =

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*; There is thus a need to extend the scope
le" 425 of this Code".*

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< * !+!* \$ " ! , , 2 ? * (& * ! , 452? * ; A #

, ! < 2! , !

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Is this a poor translation for "not very grave" or s

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psychiatrist to ensure "his or another pe
or "to enlsmeret tohfe tfhuel fpunishment aims."

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in the interest of per²son's

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! 23 4 ? 5* , A 5*
²E " = > !42; ?* (# 5* !5 !

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 ..1 & &
 ! + % % % # +
 # # % * # " % ! # % %
 ! * # % +
 % # 1 %
 !
 ! % # % # . ' 0 n l y 4 i n t h e c a s e s
 w h i c h m a y s e r v e a s a g r o u n d f o r h i s ! * d e t e r
 ! 8 * % # '
 4 . 2 0 + # '
 , 18 * %
 # !
 28 * * # + , 2 1
 5!
 4!
 5.1 0 8 !

⁴< ' * + ! 4 3 ? * @ # ,
⁵These provided I m e s p e c t o f e b h a n g a t i n t h e n a t u r e o r c o v
 application of the enforced c n h e a d n i g c e a l i n m e t a h s e u r n e a ' t u a r n e d o ' r I c n o
 of the opinion of the psychiatric commission to termi

5! % # % + 1 # % #
+ % *! ' \$ %
% ! # + %

3! " .17 & ! " !

;!8 % # % # !* -
% #

! A * #

% 1 " p r o c e e d s o b t a i n e d t h r o u g h

!< \$ + #
+ # # #
+ ' # !³ D !

! \$ # + + # + *
% * %

! F * +
s t i p u l a t i o n i n p a r a g r a p h 3 t h a t " e q u i v a l e
%

! + ' #5.0
; * + +
* %
+ + 0
!8 # * 1
\$ + + %
\$ + # !

³< * !+!* > * !,5 5?*,; < % !< 2 - %& ' " * !
554 ?2 D % t h a t " + % + %
% # 1 # % * + + %
% " (p a r a . 4 5) .
;! * + * ! 2 ;3? ;* 4 (# !
;

!@ % * % \$ 1 %
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< #
- + 2 A # ' 42 & ' %
A # 5 effect of the phrase
specified in international documents".

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a s f o l l o w s : " 1 % %
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% % + # 9 ! " #
% % + 9 ! % \$ +
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directed against cultural property protected under the

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% ' , 3 . 0.30 1 # % !

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18 ' 25 8 1
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+ # * # % % % # *
+ % + !

! <7

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! % the vic#im's " i
r " not only introduces a - ucnolnickeep t " iw hlie
r " + +
Articles 8 and 10 of the European Convent
% # % # " # +

IA * % ' 2
8 #
% + * + * %

,! " i m m o r a l r b e s h k o u i b d t h u s b e d e l e t e d

7.. & " - " (7 1 C & "
& - " !

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+ %
% + ' !

4! * " %
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\$ + % " %
% . % ! 0

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\$ " !"
3! .7 < # + % % % + +
% % # %
% % + ! ' %
' 3 !

;! " !
& % <7
51

' " 6 " ' .7 :C & (' !
, ! + ! + ! , %
3 . 0 :30 1 # % ! %
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5<

.94 ' " & (' # #
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" i m m o r a l r e b e n o # v i o n - # %
" i l l e g a l " b e h a v i o + +
' ; %
" i m m o r a l " m a y b e # m a t t e r s o f i # +

, 2A * t o " i m m o r a l b e h a v i o u r , 4 * w o u l d ,
% ' 2 8 !

, 4! h e r e f e r e n c e t r o " " s i m m o r a l d a l t h e s h a b v e i o d e l e t e d

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4 < ! !

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 ,5! " & (' " + # % " (% +
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 , ! .95 3 (' # ,5
 1 % ' 25 8
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 % % + % % ! !* &)
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 + # # + + #!
 22! % !

... (C > .:5 ! " ! C
.:< ! " !
24! 1 % ' 25 8 # ,3
!

25! <7

23! in the second offence of "a real da
isolation" are not entirely clear. Certain
% # *
+ ! < % # *
% * # + %
!

2;! "

.:? !

2 The reference to "pursuing in an obscene
see the link between obscene behaviour and
immunity".

4 ! " % % # # % \$ +
% *
2 8 " any % * #
+ % + * + * + * %
%".

4 ! "

.:7 >

4 ! % \$ %
enforcement activity if the terms "viol
"unlawful since policing can require peop
%

4, ! "

,3< ! !

" % + # # # 1 1
 ' 2 2 !
 4 @ # * ' %; # "
 # % # % % +
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 ' , 5 8 % \$ *
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 5 † " # * " ++ + %
 + ' \$ # +
 % * 1 +
 protect a person's moral, physical and ps
 5 , † # + %
 % # *
 " !
 5 2 ! + # % ++ + % \$ # #
 -notably "negligently caused death" and
 or the victim's close relative" and can b
 # * %
 \$ " % #
 8 % ! + % % %
 ' 25 8 22 !

² On the European Court's approach to the treatment of
 ! * ! , , ? * 5) % 0 > = > * ! 2 , 4 2 5 ? (# ! ;
 2
 2 , ! \$ * " D ! 8 5 2 1 , 1 9 9 8 and in CED
 & % % D ! , 4 + % .) ' : ? ? ? 4 0 !
²² These are as follows : % % a %
 # * # % % # * + %

54@ #* 3 the same as that for a "8helples
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" , / - " ") 6 " , /
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" , / "
" > "
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53! . . . # - ! * #
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5;8 * * # + ,
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3 ! 144 \$ 3 #
+ + * ' 3

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% 9 # % " % % # 9 % % + + 9
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convicted of offences of a similar nature".

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3 4!
+ # % % % +
!

3 5!
"

1 4. (
3 3!
) % + % # 24: !
provision does include the expression "or
+ %
% ' # !
discrimination on the basis of a person's
5 8 25 & + !

3; @ % * &) + + # % %
& ' % # % % +
8 (" & 8) % % 4 + # * ; (%
5 3 % % & 8 %

24 < * ! # ! * # & * ! ! , , ? * 5) % 0 > = > * !
2, 4 2 5 ? (# ;
25 < D - % & + % % F . 2 ? 0 @ & +
. , 5 ? 4 0 % 8 (, & +
23 C ? ? % ! ! ? % ? 5 ; ; 4 4 ,

% # " * + #
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141 0 " ! > " 3
; ! % \$ # + % #
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145 ! ; & C 184 < " # "
! ! C 14 ?
0 " % + %
; 2 ! i n f o r m a t i o n w i t h o u t a n y i n d i c a t i o n % a s + t o
1 ! 8 % # + # +
+ ! @ % * # \$ #
! ' * + + % " !
; 4 ! " " " " " !
;

149 ' >
;5! + % # fence as concerns "hi
i m p l e m e n t a t i o n o f r e l i g i o u s c e r e m o n i e s",
+ *
* # % + % ! - *
o f t h e r e m a i n d e r o f t h e o f f e n c e, "i n t e r f e
i n c l u d i n g r e l i g i o u s o r g a n i z a t i o n s"
% # + # !

;3!

!

142 ' !
= \$
! ;;! + % %
' , D ! #
! - *
+ * % + *
+ % !

; !

"

1.4 > " 8
! 1 % #
c o n n o t e s d e l i b e r a t e f a l s i f i c a t i o n . T h e u s
" o b v i o u s l y w r o n g " a r e c e r t a i n l y c a p a b l e o f
+ % # % +

! %
w r o n g b e " d e l i b e r a t e " o r " i n t e n t i o n a l " a n

11? ' ,!
! + % #
% * +
% 1 % * #

,!

!

117 ' > ' & ! +
2! + % # + %* +
+ % + + *
% 1 % * # % + % ! A
of "legitimate merger" and "illegal"
+ % + % +
% # + A !* +
% % +
"illegal".

4!
"legitimate" and "illegal".

119 ' 3 ! E
5! + + % # + % +
+ + % % + % +
3! ! "

(!) *

1 < 9 (! " " (

&

;! % + % + + % # %
+ % + % # % #
, % + ! # ! - *
% % % \$ + % + !
+ # % + !
! ! ! "

12. # 8
It is unclear how the definition of "a
+ 2 + % \$ #
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+ % !8 %
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!' # '
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, ! " !
122 ! C 12: !
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1 % 9 +
+ + % " + 9
+ + % !

4! # % 1 % ' , % %
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+ ' 0 . 0 . 0 . + ++ # 0 % *
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1:4 ! (! &
38 + + * + %
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" c h i l d p o r n o g r a p h y "

; 18 # * " + " # f o r m r e f e r r e d t o
p o r n o g r a p h y " a r e i n n e e d o f s o m e d e f i n i t
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18 defines child pornography as "or simulated sexually explicit conduct or
% # " ".

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" pornography "

(- and of " child pornography, as we

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be desirable to qualify the phrase "publi
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;! a" phrase such as "whi
encourage further acts of terrorism" afte

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! h"rase such as "whi
encourage further acts of terrorism" afte

5.< ! & (
! + % ! # + %
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qualifying the phrase "publi way at that make
% % + % % % !

! " a phrase such as "whi
mass disorder".

5.? - !
,! " ' what is generally termed a
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% * # 4 % % ! \$ \$
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 to its commission. It refers to "special
 information" % b # t i n - # % *
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 5! " "

" ,
 <44 ' C <42 ; # #
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Furthermore, the use of the phrase "provi
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 55 5? @ # 4 * + = >*! ,4;4*?;5 D %
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! + " G * ! # +
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+ + % \$ #! #
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! a " phrase such as "whi
the seizure of power by force" and so

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+ !

,2! " English translation "or performing
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% % !

,4! the phrase "or performing them not proper

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(" 3 > " "

> (% \$! %
,5! % * # %
+ + % ! # %

,3! " % !

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5 The use of the term "heavy circumstances"

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