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UNODC/ICSANT - Legal instruments regarding nuclear security
Austria

The criminalization for acts involving the wilful, unauthorized acquisition, possession, use, transfer or transport of radioactive materials are implemented in national Criminal Law as stated below:

Deliberate exposure through nuclear energy or ionizing radiation

§ 171 (1) Any person who causes danger to life or health of another person or to foreign property through the release of nuclear energy or other ionizing radiation is to be punished with a prison term of one to ten years.

Negligent exposure to nuclear energy or ionizing radiation

§ 172 (1) Any person who negligently commits the act threatened with punishment in § 171 shall be punished with imprisonment for up to one year or with a fine of up to 720 daily rates.

Preparation for a crime using nuclear energy, ionizing radiation or explosives

§ 175 (1) Any person who intends to enable himself or another to commit an act, if not yet determined, that is threatened with punishment according to § 171 or § 173, to create, acquire or possess a nuclear fuel, a radioactive substance, an explosive, a component of an explosive, or devices to manufacture one of these substances, or transfers such a substance to another of whom he knows that he will acquire it in preparation for one of the abovementioned acts that are subject to punishment, is punishable by imprisonment punish six months to five years.

Production and spread of weapons of mass destruction

§ 177a (1) Any person destined and suitable for mass destruction nuclear, radiological, biological or chemical weapons

1. Manufactures, processes or develops for the purpose of manufacture
2. Imports into the country, exports from the country or carries out through the country or
3. Acquires, owns or leaves or procures to another

is punished with imprisonment from one to ten years.

Unauthorised dealing with nuclear or radioactive material or radiation equipment

§ 177b (1) Any person who in violation of a statutory provision or an official order produces, treats, processes, uses, possesses, removes, transports, imports, exports, or transits nuclear material is liable to imprisonment for up to three years.

(2) The same penalty applies to any person who in violation of a statutory provision or official order produces, treats, processes, uses, possesses, removes, transports, imports, exports, or transits radioactive material or radiation equipment in a manner that can cause

1. a danger to the life or a serious assault (§ 84 para. 1) to another person or to the health or physical safety of a larger number of people, or
2. a substantial hazard for animal or plant populations, or
3. a deterioration of the quality of waters, the ground, or of air quality for a long period of time, or
4. costs exceeding 50,000 Euro for disposal and removal.

(3) Any person who in violation of a statutory provision or an official order produces, treats, processes, uses, possesses, removes, transports, imports, exports, or transits nuclear or radioactive material thus creating the risk that the nuclear or radioactive material becomes available for the production or processing of nuclear weapons capable of mass destruction is liable to imprisonment for six months to five years. The same penalty applies to any person who commits any of the offences under paras. 1 or 2 commercially.

(4) The person is liable to imprisonment for one to 10 years if one of the types of offences under paras. 1 or 2 creates the danger set out in § 171 para. 1, significantly damages animal or plant populations, or creates a deterioration of the quality of waters, the ground, or of air quality for a long period of time. If the offence causes any of the results mentioned in § 169 para. 3, the penalties under that provision apply.

(5) The term 'nuclear material' refers to source material and special fissile material as well as equipment, technology, and material governed by the safety control system under the Nuclear Non-Proliferation Act 1991 [Sicherheitskontrollgesetz 1991, BGBl. No. 415/1992]. The term 'radioactive material' refers to material containing one or more radionuclides so long as their activity or concentration can, in light of the state of technology, not be disregarded for the purpose of radiation safety; items containing radioactive material or that have radioactive material on their surface are treated in the same way as radioactive material. 'Radiation equipment' refers to instruments or facilities which, without containing radioactive material, are capable of emitting ionising radiation and the operation of which requires authorisation under the Radiation Protection Act [Strahlenschutzgesetz, BGBl. No. 227/1969] in its current version.

Negligent unauthorised dealing with nuclear or radioactive material or radiation equipment

§ 177c (1) Any person who in violation of a statutory provision or an official order negligently commits any of the offences under § 177b paras. 1, 2 or 3 is liable to imprisonment for up to one year or a fine not exceeding 720 penalty units.

(2) The person is liable to imprisonment for up to two years if the offence creates the danger set out in § 171 para. 1, significantly damages animal or plant populations, or creates a deterioration of the quality of waters, the ground, or of air quality for a long period of time. If the offence causes any of the results mentioned in § 170 para. 2, the penalties under that provision apply.