

Extradition (Convention for Suppression of Acts of Nuclear Terrorism) Regulation 2012

F2012L02434

Portfolio: Attorney-General

Committee view

2.1 The committee seeks information from the Attorney-General on the human rights compatibility of the *Extradition Act 1988* in order to make a determination as to the instrument's compatibility with human rights.

Overview

2.2 This instrument applies the *Extradition Act 1988* to all countries who are party to the International Convention for the Suppression of Acts of Nuclear Terrorism (ICSNT).¹ It does so by ensuring that the definition of an 'extradition country' in the Extradition Act is taken as including a country for which the ICSNT is in force.

Compatibility with human rights

2.3 A stand alone statement of compatibility is provided with the explanatory statement. It sets out an overview of the instrument and begins by stating the instrument 'does not engage any of the applicable rights or freedoms'. It goes on to say that the existing extradition regime 'contains a number of human rights safeguards that appropriately balance Australia's need to comply with our international obligations while ensuring that the rights of individuals are protected'.² It concludes:

While Australia's extradition regime engages with some human rights, it does so in a reasonable and proportionate way and does not operate to limit or restrict those rights. As such, the Regulation is compatible with human rights.

2.4 Extradition raises serious human rights considerations, including the right to a fair hearing, the right not to have one's privacy and family life arbitrarily interfered with, the right to liberty, and the right not to be subject to inhuman or degrading treatment.³ It is not clear from the statement of compatibility, exactly how the

1 The 2005 Convention was ratified by Australia on 16 March 2012.

2 Statement of compatibility, p. 2 of the Attachment to the explanatory statement.

3 See articles 14, 17, 9, 10 and 7 of the International Covenant on Civil and Political Rights respectively.

existing extradition arrangements are considered to be compatible with human rights. This instrument proposes adding a new category of countries to which a person may be subjected to extradition under Australia's extradition arrangements. In order for the committee to be satisfied that the instrument is compatible with human rights it is necessary to understand how the *Extradition Act 1988* complies with human rights.