

Measures Against the Financing of Terrorism Act

Promulgated, State Gazette No. 16/18.02.2003, amended, SG No. 31/4.04.2003, amended and supplemented, SG No. 19/1.03.2005, amended, SG No. 59/21.07.2006, effective as from the date of entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, amended and supplemented, SG No. 92/13.11.2007, SG No. 109/20.12.2007, effective 1.01.2008

Text in Bulgarian: Закон за мерките срещу финансирането на тероризма

Article 1. This Act defines the measures against the financing of terrorism, as well as the procedure and the control with respect to the application of the said measures.

Article 2. The purposes of this Act shall be to prevent and detect actions by natural persons, legal persons, groups and organizations that are directed at financing terrorism.

Article 3. (1) The measures under this Act shall be:

1. blocking/freezing of funds, financial assets and other property;
2. prohibition to provide financial services, funds, financial assets or other property.

(2) (Amended and supplemented, SG No. 19/2005) The persons who have implemented a measure under Paragraph (1) shall immediately notify the Minister of Interior, the Minister of Finance and the Criminal Assets Identification Commission.

(3) The blocking/freezing under Paragraph (1) shall have the effect of an attachment or distraint.

Article 4. The information necessary to achieve the purposes of this Act shall be collected, processed, systematized, analyzed, stored, used and provided by the Ministry of Interior.

Article 5. (1) Acting on a motion by the Minister of Interior or the Prosecutor General, the Council of Ministers shall adopt, supplement and modify a list of the natural persons, legal persons, groups and organizations in respect whereof the measures under this Act should be applied.

(2) The following shall be included in the list referred to in Paragraph (1):

1. natural persons, legal persons, groups and organizations identified by the United Nations Security Council as associated with terrorism, or with respect to whom sanctions for terrorism have been imposed by a resolution of the United Nations Security Council;

2. persons against whom criminal proceedings have been instituted for terrorism; financing of terrorism; forming, managing or membership of an organized crime syndicate having as its purpose the practice of terrorism or the financing of terrorism; preparation to practise terrorism; manifest incitement to practising terrorism; or a threat to practise terrorism, within the meaning given by the Criminal Code.

(3) Any other persons, identified by the competent authorities of another country or of the European Union, may also be included in the list referred to in Paragraph (1).

(4) The decision of the Council of Ministers under Paragraph (1) shall be promulgated immediately after the adoption thereof.

(5) The persons referred to in Paragraphs (2) and (3) can appeal against the decision of the Council of Ministers, whereby they are included in the list referred to in Paragraph (1), before the Supreme Administrative Court. Any such appeal shall not stay the execution of the act appealed against.

(6) In case the grounds for including a person in the list have ceased to exist, the Minister of Interior or the Prosecutor General shall, acting on his or her own initiative or at the request of the parties concerned, submit a proposal to the Council of Ministers to remove the said person from the list within 14 days after becoming aware of the grounds for removal. The decision of the Council of Ministers whereby the list is modified shall be promulgated according to the procedure established by Paragraph (4).

(7) A copy of the judgement of the Supreme Administrative Court granting an appeal under Paragraph (5) shall be transmitted to the Council of Ministers, which shall immediately introduce the required modifications. The decision of the Council of Ministers, whereby the list is modified, shall be promulgated according to the procedure established by Paragraph (4).

(8) The investigating magistrates and the prosecutors shall immediately notify the Prosecutor General where they institute criminal proceedings for terrorism; financing of terrorism; forming, managing or membership of an organized crime syndicate having as its purpose the practice of terrorism or the financing of terrorism; preparation to practise terrorism; manifest incitement to practising terrorism; or a threat to practise terrorism, within the meaning given by the Penal Code.

Article 6. (1) Any funds, financial assets and other property owned by persons included in the list under Article 5 herein, regardless of the fact in whose possession they are found, as well as any funds, financial assets and other property found in the possession of, or held by, persons included in the list under Article 5 herein, shall be blocked or frozen, except for the items and the rights that cannot be subject to execution.

(2) The measure under Paragraph (1) shall also be applied to any funds, financial assets and other property acquired after the promulgation of the list under Article 5 herein.

(3) The implementation of the measure under Paragraph (1) shall not prevent the accrual of interest on and the acquisition of other civil fruits from the funds, financial assets and other property blocked/frozen, and anything that is newly acquired shall also be blocked/frozen.

(4) The Minister of Finance may authorize that payments or other acts of disposition be effected with the funds, financial assets and other property blocked/frozen, when necessary for the following purposes:

1. medical treatment or other urgent humanitarian needs of the person whose property is blocked/frozen, or of a member of the family thereof;
2. payment of liabilities to the State;
3. payment of remunerations for work performed;
4. compulsory social insurance;

5. meeting current needs of the natural persons included in the list under Article 5 herein, and the members of the families thereof.

(5) The authorization under Paragraph (4) shall be issued on a case-by-case basis, upon a reasoned application by the person concerned or, regarding the payment of liabilities to the State, also on the initiative of the Minister of Finance. The Minister of Finance shall pronounce within 48 hours after receiving any such application.

(6) Any refusal of the Minister of Finance to grant an authorization under Paragraph (4) shall be appealable before the Supreme Administrative Court.

Article 7. (1) Natural and legal persons shall be prohibited from providing funds, financial assets or other property, as well as financial services, to any persons included in the list under Article 5 herein, except with an authorization issued under the terms and according to the procedure established by Article 6 herein.

(2) The prohibition under Paragraph (1) shall not apply to ordinary petty transactions intended to meet current needs of the natural person included in the list under Article 5 herein or of the members of the family thereof.

Article 8. (1) Any transactions in blocked/frozen funds, financial assets and other property of persons included in the list under Article 5 herein, as well as any transactions relating to the provision of funds, financial assets and other property to such persons, shall be prohibited.

(2) Anything given by the parties to a transaction carried out in violation of Paragraph (1) shall be forfeited to the Exchequer.

(3) An action under Paragraph (2) shall be brought by the Minister of Finance in the area where the property is located or the transaction is performed. If the place of performance of the transaction is abroad, the action shall be brought before the Sofia City Court.

(4) If the funds, financial assets or other property subject to forfeiture are no longer available, the cash equivalent shall be awarded.

(5) Third parties acting in good faith who claim independent rights to blocked/frozen funds, financial assets and other property may bring their claims within six months after the promulgation in the State Gazette of the decision of the Council of Ministers to adopt, supplement or modify the list under Article 5 herein.

Article 9. (1) (Amended, SG No. 109/2007) Any person, who knows that given financial operations or transactions are intended to finance terrorism, must immediately notify the Minister of Interior and the Chairperson of the State Agency for National Security.

(2) (Amended, SG No. 31/2003, repealed, SG No. 109/2007).

(3) (Amended, SG No. 31/2003, SG No. 92/2007, SG No. 109/2007) Should suspicion arise about the financing of terrorism, the persons under Article 3 (2) and (3) of the Measures against Money Laundering Act must immediately notify also the State Agency for National Security before the operation or transaction is performed, while delaying its implementation within the admissible period laid down by the legislative regulations on the relevant type of activity. In such cases, the Agency shall exercise the powers vested therein under Articles 13, 17 and 22 of the Measures against Money Laundering Act.

(4) (New, SG No. 92/2007) In case of objective impossibility that the operation or transaction be delayed, the person under Article 3 (2) and (3) of the

Measures against Money Laundering Act must also notify the Financial Intelligence Agency immediately after the operation or transaction is performed.

(5) (Renumbered from Paragraph 4, SG No. 92/2007) The persons under Article 3 (2) and (3) of the Measures against Money Laundering Act shall include in the internal rules thereof referred to in the Measures against Money Laundering Act, criteria for the identification of suspicious operations, transactions and customers directed at financing terrorism.

(6) (Renumbered from Paragraph 5, SG No. 92/2007) The disclosure of information under Paragraphs (2) and (3) may not be restricted on considerations of classified information constituting an official, commercial or bank secret and shall entail no liability for violation of other laws.

(7) (New, SG No. 92/2007) Subject to paragraph 6, neither shall any liability ensue in cases when it is established that no criminal offence has been committed and the operations and transactions have been lawful.

(8) (New, SG No. 92/2007) The persons under Article 3 (2) and (3) of the Measures against Money Laundering Act, the persons who supervise and represent them, and their employees, may not notify their customer or third parties about the disclosure of information under this Act, except in the cases of Article 14 (2) - (5) of the Measures against Money Laundering Act, subject to the restrictions under Article 14 (7) thereof.

Article 9a. (New, SG No. 92/2007) (1) The bodies to supervise the activities of the persons referred to under Article 3 (2) and (3) of the Measures against Money Laundering Act shall inform the minister of interior and the Financial Intelligence Agency if, in the course of performing their supervision activities, they find out the presence of operations or deals wherein suspicion of financing of terrorism is involved.

(2) The inspections carried out by the bodies referred to under paragraph (1) shall also include verification of whether the inspecting persons satisfy the requirements hereof. If any infringements are found out, the supervisory bodies shall inform the Financial Intelligence Agency by sending an excerpt from the relevant part of the statement of ascertainment.

Article 10. (1) The competent authorities, which have received information in connection with the application of this Act, shall not disclose the identity of the persons who have provided any such information.

(2) The information collected under this Act may only be used for the purposes of this Act or to counter crime.

Article 11. (1) (Amended, SG No. 109/2007) In the cases under Article 9 (1) and (3) herein, the Minister of Interior may issue a written order to suspend a particular operation or transaction for a period of up to three days reckoned from the day succeeding the date of issuing of the order. The Minister of Interior shall immediately notify the prosecuting magistracy and shall provide it with all relevant information.

(2) In urgent cases, where this is the only opportunity to block/freeze funds, financial assets or other property of a person in respect of whom there is reason to believe that he or she prepares to commit a terrorist act, the Minister of Interior may, by a written order, block/freeze funds, financial assets or other property for a period of up to 45 working days reckoned from the day succeeding the date of issuing of the

order. The Minister of Interior shall immediately notify the prosecuting magistracy and shall provide it with all relevant information.

(3) The orders of the Minister of Interior under Paragraphs (1) and (2) shall be appealable before the Supreme Administrative Court. The Supreme Administrative Court shall pronounce on any such appeal within 24 hours after its receipt. Any such appeal shall not stay the execution.

(4) The persons obliged to comply with the orders under Paragraphs (1) and (2) shall be considered notified as of the date on which they receive a transcript of the said orders.

(5) Where a corporeal immovable is blocked, a copy of the order of the Minister of Interior under Paragraph (2) and the judgment of court under Paragraph (3) shall be transmitted to the competent recording office.

Article 12. (Amended, SG No. 19/2004) The measures under Article 3 (1) herein shall be lifted within seven days after the promulgation in the State Gazette of the decision of the Council of Ministers whereby the natural or legal persons, groups or organizations are removed from the list, unless the Criminal Assets Identification Commission presents, within the same time limit, a court ruling on extension of the said measures.

Article 13. The Minister of Interior shall exchange with the competent authorities of other countries and of international organizations information for the purpose of preventing and detecting actions by natural and legal persons directed at financing terrorism.

Article 14. (Amended, SG No. 31/2003, SG No. 109/2007) The State Agency for National Security shall, acting on its own initiative or if requested to so, exchange information under this Act with the corresponding international bodies and with the authorities of other countries on the basis of international treaties and bilateral agreements or under conditions of reciprocity.

ADMINISTRATIVE PENALTY PROVISIONS

Article 15. (1) Any person, who commits or suffers another to commit any violation under Article 6 (1), Article 7 (1), Article 9 (1) and (3), and Article 11 (1) and (3) herein, shall be liable to a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 5,000, unless the act committed constitutes a criminal offence.

(2) Where a violation under Paragraph (1) is committed by a sole trader or a legal person, a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 50,000 shall be imposed.

Article 16. (1) The written statements ascertaining the commission of violations shall be drawn up by the authorities of the Ministry of Interior, and the penalty decrees shall be issued by the Minister of Interior or by officials authorized by him.

(2) The ascertainment of violations, the issuing, appeal against and the execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISION

§ 1. (Amended, SG No. 59/2006) "Financial services," within the meaning given by this Act, shall be: carrying out the activities under Article

2 (1) and (2) of the Credit Institutions Act; insurance, reinsurance or insurance-related services; public offering of securities and trade in securities; all forms of management of funds or properties on a professional basis; all forms of management of collective investments, management of social insurance companies and funds; provision and dissemination of financial information, processing of financial data and the respective software ensuing from providers of other financial services, as well as consulting, in intermediation, accounting and other auxiliary activities related to the financial services described above.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. (Amended, SG No. 31/2003) The persons under Article 3 (2) and (3) of the Measures against Money Laundering Act shall, within four months after the entry of this Act into force, supplement the internal rules thereof under Article 16 (1) of the Measures against Money Laundering Act by adding criteria for identification of suspicious operations or transactions and customers directed at financing terrorism, and shall transmit the said regulations to the Director of the Financial Intelligence Agency for approval.

§ 3. Items 1 and 2 of § 21 of the 2003 State Budget of the Republic of Bulgaria Act (promulgated in the State Gazette No. 120 of 2002; corrected in No. 2 of 2003) are repealed.

§ 4. The implementation of this Act is entrusted to the Minister of Interior and the Minister of Finance.

The Act was passed by the 39th National Assembly on the 5th day of February 2003 and the Official Seal of the National Assembly has been affixed thereto.