

LAW
ON THE FREEZING
OF ASSETS WITH THE AIM OF PREVENTING TERRORISM
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I PRELIMINARY PROVISIONS

Subject matter
Article 1

This Law lays down actions and measures for freezing assets held by designated persons; the competences of state authorities concerning the application of these measures; and provides for the rights and obligations of natural and legal persons in the application of this Law.

Definition of terms
Article 2

For the purposes of this Law, the following terms are defined as follows:

1) Freezing of assets and funds means temporary prohibition of transfer, conversion, disposal and movement of assets or funds, or temporary management of such assets and funds based on a decision of the competent state body.

2) Assets and funds means financial instruments, assets of any kind, moveable or immovable, tangible or intangible, however acquired, and documents or instruments in any form, evidencing the title or interest with respect to such funds or assets (such as bank loans, traveller and bank cheques, money orders, shares, securities, bonds, bills of exchange, letters of credit, interests, dividends, or any other proceeds collected based on or from such funds or assets, etc.)

3) Designated person means natural person, legal person, or a group or an association of citizens, whether registered or not, designated and listed as a terrorist, terrorist organisation or terrorist financier, based on: the relevant United Nations Security Council resolutions or acts of international organisations of which Serbia is a member, proposal of the relevant state authorities or a justified request sent by a foreign state.

4) Terrorism financing means the providing or collecting of funds or property, or an attempt to do so, with the intention of using them, or in the knowledge that they may be used, in full or in part:

- 1) in order to carry out a terrorist act;
- 2) by terrorists;
- 3) by terrorist organizations.

Terrorism financing also refers to inciting, aiding and abetting in the provision or collection of property, regardless of whether a terrorist act was committed or whether the property was used for the commission of a terrorist act.

5) A terrorist act means the criminal offence specified in the treaties listed in the annex to the International Convention for the Suppression of the Financing of Terrorism, as well as any other act intended to cause death or a serious bodily injury to a civilian or

any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

6) A terrorist means a person who individually or together with other persons:

1) attempts or commits an act of terrorism in any way, directly or indirectly;

2) aids and abets in the commission of a terrorist act;

3) has knowledge of an intention of a group of terrorists to commit an act of terrorism, contributes to the commission, or assists in the continuation of the commission of a terrorist act to a group acting with a common purpose.

7) A terrorist organization means a group of terrorists which:

1) attempts or commits an act of terrorism in any way, directly or indirectly;

2) aids and abets in the commission of a terrorist act;

3) has knowledge of an intention of a group of terrorists to commit an act of terrorism, contributes to the commission, or assists in the continuation of the commission of a terrorist act to a group acting with a common purpose.

8) Reasonable belief that a person is a terrorist, terrorist financier, involved in activities of a terrorist group or commission of a terrorist act is the level of conviction that a sensible person of average intellectual capabilities can gain based on evidence – facts which are generally known or verifiable and credible information at the disposal of the competent state authorities.

II DESIGNATIONPROCEDURE

1. List of designated persons

Article 3

The Government shall develop the list of designated persons based on:

1) the lists of designated persons made by the UN and other international organisations of which the Republic of Serbia is a member;

2) a proposal of the competent state authorities, based on a reasonable belief that a person is a terrorist, terrorist financier, involved in activities of a terrorist group or commission of a terrorist act;

3) justified request of another country.

The act establishing the list of designated persons shall be published in the Official Gazette of the Republic of Serbia and on the official web pages of the Government and the Administration for the Prevention of Money Laundering of the Republic of Serbia.

Any amendment to the list of designated persons shall be made immediately after knowing of the existence of facts that are relevant for its amendment.

The Government shall be required at least once a year to consider the justifiability of the listing of designated persons, at the request of the Minister in Finance and the relevant state authorities referred to in Article 5 para 1 of this Law.

- 1) Designating persons based on the lists made by the UN and other international organisations of which the Republic of Serbia is a member

Article 4

The Ministry of Foreign Affairs shall recommend to the Government the persons to designate, based on the lists made by the UN and other international organisations of which the Republic of Serbia is a member.

The Government shall include in the list all the persons referred to in para 1 of this Article.

If the list of designated persons referred to in para 1 of this Article is modified, the Ministry of Foreign Affairs shall be required to recommend to the Government without delay to modify the list.

- 2) Designating persons based on a proposal of a relevant state authority

Article 5

The Ministry of the Interior, a state authority in charge of security and intelligence or the Administration for the Prevention of Money Laundering (hereinafter referred to as: the APML) shall submit to the Government a written and reasoned proposal for designation.

The proposal referred to in para 1 of this Article shall contain: data on the person and facts indicating the justifiability of the reasons to believe that the person is a terrorist, terrorism financier, involved in activities of a terrorist group or in the commission of a terrorist act, data on the assets which may be subject to freezing, and opinions of the other relevant state authorities from para 1 of this Article.

The Government, on the grounds of reasonable belief based on the reasons contained in the proposal from Article 2 of this Law, shall decide on including the proposed person into the list of designated persons.

The persons designated shall be served with the decision in person, in line with the Law.

- 3) Designating persons based on requests made by other countries

Article 6

The request for designation or freezing of assets or funds by another country shall be sent through the diplomatic channel.

- 2) a proposal of the competent state authorities, based on a reasonable belief that a person is a terrorist, terrorism financier, involved in activities of a terrorist group or commission of a terrorist act;

The Government, within 3 working days upon receiving the request, based on reasonable belief that the person is a terrorist, terrorism financier, involved in activities of a terrorist group or in the commission of a terrorist act, decides on the proposal of the relevant ministry on inclusion of the person in the list referred to in Article 3 of the Law.

The person designated based on a reasoned request made by a foreign country shall be provided with the Decision on inclusion in the list of designated persons, in line with the Law.

2. Court Procedure Article 7

Decision on inclusion in the list of designated persons is final and the designated person may institute an administrative dispute against it.

The administrative dispute may be instituted on the grounds of:

- 1) erroneous identification of the person and
- 2) nonexistence of the reasons for including the designated person in the list.

In the case referred to in para 2, item 1 of this Article, the competent court shall render the decision in the administrative dispute within 30 days from the date of initiation of the procedure.

III FREEZING OF ASSETS AND FUNDS

Direct reporting requirement Article 8

Any legal and natural person, while carrying out its business activities, shall detect existence of any business or other similar relationship with the designated person.

If any legal and natural person detects any business or other similar relationship with the designated person, they shall suspend without delay any related activity and inform the APML promptly thereof, but no later than within 24 hours.

The person referred to in para 2 of this Article shall refrain from any activity until the receipt of the decision on freezing of assets and funds or information that the decision has not been made, and no later than three working days from the date of receipt of the report by the APML.

The legal and natural person referred to in Para 2 of this Article shall enclose with its report their name and surname and address, or the name and the address of its headquarters, as well as any pertinent written or electronic documentation and other information relevant for identification of the designated person, assets and business and other relationships.

The report from para 2 and information from para 4 of this Article shall be sent in writing or electronically, and in case that they are sent by telephone, such a report shall be confirmed in writing.

The organisation competent for maintaining the registry of business entities, associations, endowments and foundations, courts and notaries public shall consult the list of designated persons before registering, or authenticating a real estate transaction contract. If a designated person is nominated as the director, responsible officer, or majority owner of the company, association, endowment and foundation, or if the designated person appears as a contracting party in a real estate transaction, the state body shall reject the request for registration or authentication of contract.

The APML shall be submitted, without delay, information in relation to registering of a business entity, association, endowment and foundation, or authenticating a real estate transaction contract.

The minister of finance, at the proposal of the director of the APML, shall stipulate in more detail the manner of submitting information on a designated person and their property referred to in para 2 and 7 of this Article.

Procedure in the APML Article 9

The APML is authorised to request from the state bodies, organisations and persons entrusted with public authorities data on a designated person and their assets.

State bodies, organisations, and persons entrusted with public authorities shall report to the APML, without delay, and no later than the next working day from the date of receipt of the request, any data that they hold concerning the designated person and their assets.

The APML shall make a report without delay, and in especially justifiable circumstances, no later than three working days from the date of the receipt of the report or information referred to in Article 8 of this Law.

The report contains the data concerning the identity of the reported person and their assets obtained from a state body, organisation or person entrusted with public authorities, as well as a conclusion on whether the reported person constitutes a designated person and whether the assets and funds are subject to freezing.

The APML shall send the report referred to in Para 3 of this Article to the minister of finance, without delay.

The minister of finance, at the request of the APML, shall specify the manner of submission of the data on a designated person and their assets by the state bodies, organisations and persons entrusted with public authorities.

Authorisation to freeze assets and funds Article 10

If, upon receipt of the report referred to in Article 9 of this Law, the minister of finance finds a designated person and assets and funds subject to freezing, he/she shall pass, without delay, a decision ordering the freezing of assets and funds of such a person.

The decision ordering the freezing of assets and funds must contain:

- 1) data on the designated person;
- 2) data on the assets and funds to be frozen;
- 3) designation that the seized assets and funds shall be managed by the Directorate for the Administration of Seized Assets, in accordance with law;
- 4) designation of persons to be served the decision.

The decision ordering the freezing of assets and funds shall be served to the legal or natural person holding the assets and funds, designated person, Directorate for the Administration of Seized Assets, APML, competent public prosecutor's office, body competent for security and intelligence, ministry competent for foreign affairs, as well as

to any other state body that may be linked to the assets and funds designated in the decision.

The decision shall be served according to the rules of the general administrative procedure.

The natural and legal person holding the assets and funds shall freeze the assets and funds based on the decision ordering the freezing.

Notification of no decision Article 11

If, upon receipt of the report from the APML, the minister of finance finds no designated person nor assets and funds subject to freezing, i.e. that the conditions to freeze assets and funds have not been met, he/she shall send, without delay, a written notice to the reporting legal or natural person that it may proceed with the activities that it has suspended.

The minister of finance shall submit to the APML the notice referred to in para 1 of this Article.

Duration of freezing Article 12

Freezing of assets and funds shall last until the designated person is no longer listed on the list of designated persons, or until the competent court passes a decision pursuant to this Law.

The minister of finance shall be required at least twice a year, at the proposal of the APML and upon receipt of opinions of the competent state authorities referred to Article 5, para 1 of this Law, to consider the justifiability of the decision ordering the freezing of assets and funds.

If the minister of finance establishes that conditions to pass the decision have not been met, he/she shall annul such a decision.

Management of frozen assets and funds Article 13

Assets and funds frozen under this Law shall be managed by the Directorate for Administration of Seized Assets, in accordance with law.

Administrative dispute Article 14

The decision ordering freezing of assets and funds is final and may be contested in an administrative dispute.

The administrative dispute may be instituted before the competent court if the:

- a) the person whose assets were frozen is not a designated person;
- b) the assets and funds frozen do not constitute assets and funds which must be frozen under this Law.

Under this Law, an administrative dispute may be instituted within the period in which assets and funds are frozen.

Institution of administrative proceedings shall not postpone the execution of decision ordering freezing of assets and funds.

Permitted use of a part of assets and funds Article 15

The designated person whose assets and funds have been frozen is entitled to institute proceedings before a court with the aim of excluding a part of the assets or funds necessary for basic costs of living (food, rent or home loan instalment payments, medical treatment and medications, taxes, insurance premiums, public utility costs, costs for legal services rendered, fee for regular maintenance or keeping of frozen funds or other financial assets or economic resources, if they were generated after the passing of the decision ordering freezing of assets and funds).

The subject matter jurisdiction in deciding in the procedure with the aim of excluding a part of the assets or funds belongs to a court of general jurisdiction, according to the law which regulates the competences of courts.

The court authorised for deciding in the proceedings referred to in para 1 of this Article is the court in the area of whose jurisdiction the designated person has permanent or temporary residence, i.e. the court in the area of whose jurisdiction the assets and funds subject to exclusion from freezing are located.

The proceedings with the aim of excluding a part of the assets or funds shall be deemed urgent and is led according to the rules of extrajudiciary procedure.

Enforcement of court decisions Article 16

The assets and funds frozen in compliance with this Law may be subject to enforcement upon a final court decision, with the aim of protecting bona fide third parties.

Revoking a decision to freeze assets and funds Article 17

If the reasons for rendering the decision ordering freezing of assets and funds cease to exist, the minister for finance shall terminate the validity of such a decision, according to the law which regulates general administrative procedure.

The decision on revocation of the decision ordering freezing of assets and funds shall be served to the legal or natural person who holds the assets, the designated person, the Directorate for Administration of Seized Assets, the APML, competent public prosecutor's office, body competent for security and intelligence, ministry of foreign affairs, and the other state authorities to whom the decision ordering freezing of assets and funds has been served.

The decision on revocation of the decision ordering freezing of assets and funds is served according to the rules of general administrative procedure.

IV SUPERVISION

The body authorised for supervision Article 18

The APML is authorised to conduct supervision of the implementation of the regulations from this Law.

If in its supervision the APML establishes existence of irregularities or illegalities in the implementation of this Law, it is obliged to:

- 1) 1) request elimination of irregularities and deficiencies within the deadline the APML itself sets;
- 2) 2) submit a request to the competent state body for initiation of the proper procedure;
- 3) 3) take other measures and activities within its competences.

V PENAL PROVISIONS

Economic offences Article 19

A legal entity shall be fined the amount of RSD 100,000 to 3,000,000 for economic offence if it:

- 1) fails to detect the existence of business or other similar relationships with a designated person (Article 8, para 1);
- 2) fails to terminate all activities with the designated person, fails to report to the APML or fails to report to the APML within the specified time (Article 8, para 2);
- 3) fails to provide all written and electronic documentation (Article 8, para 4);
- 4) fails to freeze assets pursuant to the decision of the minister of finance (Article 10, para 5).

For the economic offence referred to in Para 1 of this Article a fine in the amount of RSD 10,000 to 200,000 shall also be imposed on the responsible officer of the legal person.

Misdemeanours Article 20

The responsible officer of a court, organisation competent for maintaining the registry of business entities, associations, endowments and foundations, and notaries public shall be fined an amount of RSD 5,000 to 150,000 for misdemeanour if they:

- 1) register a business entity, association, endowment or foundation or if they authenticate a real estate trade contract or if they do not furnish the APML with the information on facts and circumstances related to the registry of a business entity, association, endowment or foundation, or the authentication of a real estate contract (Article 8, para 7);

A natural person shall be fined an amount of RSD 510,000 to 150,000 for misdemeanour if they:

- 1) fail to detect the existence of business and other similar relationships with a designated person (Article 8, para 1);
- 2) fail to terminate any activity with the designated person, fail to report to the APML or fail to report to the APML within the specified time (Article 8, para 2);
- 3) fail to provide the entire written and electronic documentation (Article 8, para 4);
- 4) fail to freeze assets pursuant to the decision of the minister of finance (Article 10, para 5).

VI ANNUAL REPORT

Article 21

The Government shall submit an annual report on the implementation of this Law to the National Assembly by the end of March of the current year for the preceding year.

VII TRANSITIONAL AND FINAL PROVISIONS

Article 22

The Government shall establish the list of designated persons within 30 days of entering into force of this Law.

Article 23

The minister of finance shall pass the regulations referred to in Article 8, para 8, and Article 9, para 6, of this Law within three months from the date of adoption of this Law.

Article 24

This Law shall enter into force on the eighth day following its publication in the Official Gazette of the Republic of Serbia.