

LAW

on the Freezing of Assets with the Aim of Preventing Terrorism

Official Gazette of Republic of Serbia, No 29 of 23 March 2015 and 113 of 17
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I. PRELIMINARY PROVISIONS

Subject matter

Article 1

This Law lays down actions and measures for freezing of assets of designated persons; the competences of state authorities concerning the application of these measures; and 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 have the following meaning:

- 1) *Freezing of assets* means temporary prohibition of transfer, conversion, disposal and movement of assets, or temporary management of such assets based on a decision of the competent state authority.
- 2) *Assets* means financial instruments, assets of any kind, moveable or immoveable, tangible or intangible, however acquired, and documents or instruments in any form, evidencing the title to or interest in such funds or assets (e.g. 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.)
2a) Assets of a designated persons means the assets referred to in item 2) of this Article owned or held by or directly or indirectly managed by the designated person.*
- 3) *A 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: relevant United Nations Security Council Resolutions or acts of international organisations of which Serbia is a member, proposal of competent state authorities or a justified request of a foreign state.

4) *Terrorism financing* means providing or collecting of assets, 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:

- in order to carry out a terrorist act;
- by terrorists;
- by terrorist organizations.

Terrorism financing also means aiding or abetting in the provision or collection of assets, 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:

- attempts or commits an act of terrorism in any way, directly or indirectly;
- aids and abets in the commission of a terrorist act;
- 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:

- attempts or commits an act of terrorism in any way, directly or indirectly;
- aids and abets in the commission of a terrorist act;
- 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 form based on evidence, i.e. facts which are generally known or verifiable and credible information at the disposal of the competent state authorities.

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II. LISTS OF DESIGNATED PERSONS AND DESIGNATION PROCEDURE*

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1. Lists of designated persons*

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List of persons designated by the United Nations Security Council and other international organisations of which the Republic Serbia is a member*

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Article 3*

List of persons designated by the United Nations Security Council and other international organisations of which the Republic of Serbia is a member shall be taken over in the original in the English language and published on the website of the Administration for the Prevention of Money Laundering.*

The ministry competent for foreign affairs shall notify, within the shortest time possible, the ministry competent for internal affairs, Administration for the Prevention of Money Laundering, Customs Administration, Business Registers Agency, Republic Public Prosecutor's Office, National Bank of Serbia and authorities competent for security and intelligence of any change made to the list of persons designated by the United Nations Security Council or other international organisations of which the Republic of Serbia is a member.*

The Administration for the Prevention of Money Laundering (hereinafter: APML) shall notify the natural and legal persons that are obliged to apply the actions and measures for the prevention of money laundering and terrorism financing according to the law of any change to the list of designated persons referred to in paragraph 1 of this Article.*

The minister competent for finance shall provide for the method of notification referred to in paragraph 3 of this Article at the APML's proposal*

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2. Designation procedure*

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Designation based on the Government's decision*

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Article 4*

The Government shall establish the list of designated persons in its decision, based on a:*

1) Proposal of the competent state authorities, founded on a reasonable belief that a person is a terrorist, terrorist financier, involved in activities of a terrorist group or in the commission of a terrorist act;*

2) Justified request of foreign country.*

The Government shall at least once a year consider the justifiability of designations, at the proposal of the minister competent for finance and upon obtaining opinion from the competent state authorities referred to in Article 5, paragraph 1 of this Law.*

The APML shall notify the natural and legal persons that are obliged to apply the actions and measures for the prevention of money laundering and terrorism financing according to the law of any change to the list of designated persons referred to in paragraph 1 of this Article.*

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** Designation based on a proposal of the relevant state authority*

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Article 5*

The ministry for the interior or the competent public prosecutor's office or state authority competent for security and intelligence or the APML shall submit to the Government a written and justified proposal for designation.*

The proposal referred to in paragraph 1 of this Article shall be accompanied by: information indicating the reasons to believe that a person is a terrorist, terrorism financier, involved in activities of a terrorist group or in the commission of a terrorist act; details concerning the assets which may be subject to freezing, and opinions of the competent state authorities referred to in paragraph 1 of this Article.*

The Government decides, based on reasonable belief, on inclusion of the proposed person into the list of designated persons.*

The decision on inclusion on the list shall be served to the designated person directly, according to the law.*

The Government, through the ministry competent for foreign affairs, shall send a request to a foreign country to freeze the assets of a person designated by Government decision, if there is information that the designated person has assets in the foreign country.*

The request shall contain the details of the person, facts corroborating the reasonable belief that the person is a terrorist, terrorism financier, involved in activities of a terrorist group or in a commission of a terrorist act, and about the assets which may be subject to freezing.*

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** Designation based on a request of a foreign country*

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Article 6

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

The Government, * based on a reasonable belief that a person is a terrorist, terrorist financier or involved in activities of a terrorist group or in the commission of a terrorist act, shall **within the shortest time possible** * decide on the proposal for an act of the competent ministry for including the person on the list referred to in Article 3 of this Law.

The Government shall notify the requestor about inclusion of the person on the list of designated persons through the ministry of foreign affairs.

The decision on the inclusion on the list of designated persons, passed based on a justified request of a foreign country, shall be served on the designated person, in accordance with law.

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Article 6a*

The decision on the inclusion on the list referred to in Articles 5 and 6 of this Law shall be published in the Official Gazette of the Republic of Serbia and on the official websites of the APML and the ministry competent for the interior.*

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*** Court procedure**

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Article 7

The decision including a person on the list of designated persons is final and the designated person may institute administrative dispute proceedings against it.

The administrative dispute proceedings may be instituted on account of:

- 1) Erroneous identification of the person and
- 2) Reasons for including the designated person on the list.

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

Inclusion on the list of designated persons of the United Nations Security Council*

*Official Gazette of RS, No. 113/2017

Article 7a*

The Government, through the ministry competent for foreign affairs, proposes a person to be included on the list of designated persons of the United Nations Security Council:*

1) if the person, which was included on the list of designated persons by the Government, related to persons or organisations designated in the United Nations Security Council Resolutions,*

2) if the person is not on the list of designated persons of the United Nations Security Council.*

The proposal referred to in paragraph 1 of this Article shall be accompanied by: information indicating the reasons to believe that a person is a terrorist, terrorism financier, involved in activities of a terrorist group or in the commission of a terrorist act; details concerning the assets which may be subject to freezing, and other information as required by the relevant United Nations Security Council Committees.*

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Removal from the list of designated persons of the United Nations Security Council*

*Official Gazette of RS, No. 113/2017

Article 7b*

The Government, through the ministry competent for foreign affairs, shall propose that a person be removed from the list of designated persons of the United Nations Security Council:*

1) if after having considered the justifiability of inclusion on the list of designated persons based on Article 4 of this Law it passes a decision on the removal from the list of designated persons;*

2) if the outcome of the court proceedings was to the benefit of the designated person resulting in removal from the list of designated persons;*

3) in case of death of the designated persons.*

The proposal shall be accompanied by the details of the person, reasons demonstrating that the conditions referred to in paragraph 1 of this Article have been met, and other information as required by the competent United Nations Security Council Committees.*

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III FREEZING OF ASSETS

Direct reporting requirement

Article 8*

Any legal or natural person shall establish, when carrying out its business activities, whether it has any business or other similar relationship with a designated person.*

If the legal or natural person establishes that it has business or other similar relationship with a designated it shall freeze the assets of the designated person within the shortest time possible and report it to the APML immediately, but no later than within 24 hours.*

The person referred to in paragraph 2 of this Article shall freeze the assets of the designated person until the receipt of the decision on the freezing of assets or notification that the decision has not been made, but no later than seven days from the date of reporting to the APML.*

The person referred to in paragraph 2 of this Article may not make his or another person's assets available to the designated person, person owned or controlled, directly or indirectly, by the designated person, or person acting for and on behalf of the designated person or according to his instructions..*

The person referred to in paragraph 2 of this Article shall enclose with its report their name and surname and address, or the name and the registered office, as well as any written or electronic documentation and other information relevant for identification of the designated person, assets and business or other similar relationship.*

The report referred to in paragraph 2 and information referred to in paragraph 5 of this Article shall be sent in writing or electronically, and in case that it is made by telephone, such a report shall be confirmed in writing.*

The organisation competent for maintaining the registry of business entities, associations, endowments and foundations, as well as courts and public notaries shall consult the list of designated persons before, respectively, registering, or drafting or authenticating a real estate transaction contract. If a designated person is nominated as the director, responsible person or majority owner of a company, association, endowment, foundation or if a designated person appears as a contracting party in a real estate transaction, the registration shall not be made nor shall the real estate contract be drafted.*

The report of non-entry into the register of companies, associations endowments, foundations or of the rejection of drafting or

authenticating a real estate transaction contract, in the case referred to in paragraph 7 of this Article, shall be sent to the APML within the shortest time possible.*

The actions and measures referred to in this Article shall also apply on the person that acts for or on behalf of the designated person or according to his instructions.*

The minister competent for finance shall, at the APML's proposal, regulate the method of reporting referred to in paragraphs 2 and 8 of his Article.*

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APML procedure

Article 9

The APML is authorised to request from state authorities, organisations and persons entrusted with exercising public powers data on the designated person and his assets.

State authorities, organisations, and persons entrusted with exercising public powers shall report to the APML, without delay, but 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, but in particularly justifiable circumstances it shall do so within three working days from the date of the receipt of the report or report referred to in Article 8 of this Law.

The report shall contain the data concerning the identity of the reported person and his assets obtained from a state authority, organisation or person entrusted with exercising public powers, and a conclusion as to whether the reported person is a designated person and whether the assets are subject to freezing.

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

The minister of finance, at the request of the APML, shall specify the method of reporting the data on a designated person and his assets by the state authorities, organisations and persons entrusted with exercising public powers.

Authorisation to freeze funds

Article 10

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

The decision on freezing of assets must contain:

- 1) details of the designated person;
- 2) details of the assets to be frozen;
- 3) indication that the frozen assets shall be managed by the Seized/Confiscated Assets Management Directorate, in accordance with law;
- 4) indication of persons to be served the decision.

The decision on the freezing of assets shall be served to the legal or natural person holding the assets, designated person, Seized/Confiscated Assets Management Directorate, APML, competent public prosecutor's office, body competent for security and intelligence, ministry competent for foreign affairs, **ministry competent for the interior**,* and other state authorities that may be related to the assets identified in the decision.

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

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

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Notification of no decision

Article 11

If, upon receipt of the report from the APML, the minister of finance finds that the reported person is not a designated person nor assets subject to freezing, i.e. that the conditions to freeze assets have not been met, he 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 notification referred to in paragraph 1 shall also be sent by the minister for finance to the APML.

Duration of the freezing

Article 12

Freezing of assets 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 at least twice a year, at the proposal of the APML and upon receipt of opinions from the competent state authorities referred to in Article 5, paragraph 1 of this Law, consider the justifiability of the decision on the freezing of assets.

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

Management of frozen assets

Article 13

Assets frozen under this Law shall be managed by the Seized/Confiscated Assets Management Directorate, in accordance with law.

Administrative dispute

Article 14

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

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

- a) person whose assets were frozen is not a designated person;
- b) assets frozen are not assets that must be frozen under this Law.

Under this Law, an administrative dispute may be instituted in the course of the period in which assets are frozen.

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

Permitted use of a part of assets

Article 15

The designated person whose assets have been frozen is entitled to institute proceedings before a court with the aim of excluding a part of the assets 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).

The jurisdiction *ratione materiae* in conducting the procedure with the aim of excluding a part of the assets belongs to the basic court, according to the law which regulates jurisdiction of courts.

The court competent for to decide the cases referred to in paragraph 1 of this Article shall be the court in whose jurisdiction the designated person has permanent or temporary residence, or the court in whose jurisdiction the assets subject to exclusion from freezing are located.

The proceedings for excluding a part of the assets shall be considered urgent and shall be conducted according to the rules of extrajudicial procedure.

Enforcement of court decisions

Article 16

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

Revoking a decision on the freezing of assets

Article 17

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

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

IV SUPERVISION

The body competent for supervision

Article 18

The APML shall supervise the implementation of this Law.

If in the course of supervision the APML finds irregularities or illegalities with respect to compliance with this Law, it shall:

- 1) request removal of irregularities and deficiencies within a deadline the APML itself sets;
- 2) submit a request to the competent state body instituting an appropriate procedure;
- 3) take other measures and activities according to the powers vested in it by law.

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, paragraph 1);
- 2) fails to **freeze the assets of the designated person**^{*}, fails to report to the APML or fails to report to it within 24 hours (Article 8, paragraph 2);
- 2a) makes available his or other person's assets to the designated person, person owned or controlled, directly or indirectly, by the**

designated person or person acting for or on behalf of the designated person or according to this instructions (Article 8, paragraph 4);*

3) fails to provide the entire written and electronic documentation (Article 8, paragraph 5*);

4) fails to freeze assets based on the decision on the freezing of assets (Article 10, paragraph 5).

For the economic offence referred to in paragraph 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.

*Official Gazette of RS, No. 113/2017

Misdemeanours

Article 20

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

1) Register a company, association, endowment or foundation or if they draft or authenticate a real estate transaction contract (Article 8, paragraph 7);*

2) fails to deliver to the APML a report of non-entry into the register of companies, associations, endowments, foundations or concerning the rejection of drafting or authenticating a real estate transaction contract (Article 8, paragraph 8).*

A natural person shall be fined an amount of RSD 10,000 to 150,000 for misdemeanour if he:

1) fails to detect the existence of business or other similar relationships with a designated person (Article 8, paragraph 1);

2) fails to **freeze the assets of the designated person***, fails to report to the APML or fails to report to it within 24 hours (Article 8, paragraph 2);

2a) makes available his or other person's assets to the designated person, person owned or controlled, directly or indirectly, by the designated person or person acting for or on behalf of the designated person or according to this instructions (Article 8, paragraph 4);*

3) fails to provide the entire written and electronic documentation (Article 8, paragraph 5*).

4) fails to freeze assets based on the decision on the freezing of assets (Article 10, paragraph 5).

*Official Gazette of RS, No. 113/2017

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 competent for finance shall pass the regulations referred to in Article 8, paragraph 8, and Article 9, paragraph 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.

PROVISIONS NOT INCORPORATED IN THE CONSOLIDATED VERSION OF THE LAW

Law Amending the Law on the Freezing of Assets with the Aim of Preventing Terrorism: Official Gazette of RS, 113/2017-255

Article 16

The minister competent for finance shall pass the regulation referred to in Article 4, paragraph 4 of this Law within 30 days from the date of adoption of this Law.

Article 17

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