

On the basis Article 95, point 3 of the Constitution of Montenegro, I bring the

Decision on endorsement of the Law on International Restrictive Measures

I endorse the Law on International Restrictive Measures, adopted by Parliament of Montenegro on the 12th sitting of First Ordinary (Spring) Session in 2018, on the July 27th 2018.

No: 01-951/2

Podgorica, July 30th, 2018

President of Montenegro

Milo Đukanović

Parliament of Montenegro, on the 12th sitting of First Ordinary (Spring) Session in 2018, on the July 27th 2018, based on the article 82, paragraph 1, point 2 of the Constitution of Montenegro, has adopted the

LAW

ON INTERNATIONAL RESTRICTIVE MEASURES

*The Law was published in Official Gazette of Montenegro
No. 56/2018 on 3/08/2018 and it came into force on
11/08/2018*

I. GENERAL PROVISIONS

Subject matter

Article 1

This law shall regulate the methods of introduction, application and lifting of international restrictive measures that Montenegro shall implement with the purpose of establishing and preserving the international peace and security, respecting the human rights and fundamental freedoms, fighting the terrorism and distribution of weapons of mass destruction (proliferation), developing and strengthening the democracy, rule of law, and achieving other objectives in compliance with international law.

Grounds for introduction of international restrictive measures

Article 2

Provisions of this law shall refer to the application of international restrictive measures (hereinafter: restrictive measures) that shall be introduced on the grounds of:

- 1) United Nations Security Council Resolutions, adopted under Chapter VII of the United Nations Charter;
- 2) European Union acts;
- 3) decisions of other international organisations where Montenegro is a member or whose declarations it upholds in line with its foreign policy priorities; and
- 4) other grounds, in compliance with international law.

Scope of application

Article 3

Restrictive measures shall apply to:

- 1) states;
- 2) a national of Montenegro;
- 3) a foreigner and a stateless person residing on the territory of Montenegro in compliance with the law regulating the conditions for foreigners' stay on the territory of Montenegro and ratified international agreements;
- 4) trade company, other legal persons and entrepreneur that has been entered in the corresponding register in compliance with regulations of Montenegro;
- 5) a foreign company carrying out economic activities through a part of the company on the territory of Montenegro; and
- 6) a foreign legal or physical person who holds in ownership, in possession or under control assets and/or other property in Montenegro.

Types of restrictive measures

Article 4

Restrictive measures shall include:

- 1) severance of diplomatic relations;
- 2) full or partial severance of economic relations;
- 3) full or partial restriction of import, export, transit, transport, provision of services and of traffic, postal and other communications;
- 4) embargo on arms, military equipment and dual-use commodities as governed by foreign trade regulations on arms, military equipment and dual-use commodities;
- 5) restricted entry to Montenegro;
- 6) restricted disposition and acquisition of assets and/or other property (freezing).

Use of gender-sensitive language

Article 5

Terms used in this law with reference to physical persons in the masculine gender shall also include the same terms in the feminine gender.

Meaning of terms

Article 6

Each of the terms used in this law shall have the following meanings:

1) **designated person** shall be:

a) physical or legal person, trade company, entrepreneur, group or association that has been designated as a terrorist, terrorist organisation or funder of a terrorist or terrorist organisation, pursuant to:

- United Nations Security Council Resolution 1267 (1999), 1718 (2006) and 1737 (2006) and resolutions that have legally derived from them,
- United Nations Security Council Resolution 1373 (2001), including therein the provision pursuant to which the relevant restrictive measures shall apply to designated persons and to public communications of persons covered with this provision,
- acts of international organisations that Montenegro is a member of, proposal by responsible state authorities or pursuant to a reasonable request from another country,

b) physical or legal person upon which financial sanctions have been imposed by United Nations Security Council and which concern the preventing, combating and intercepting of the distribution of weapons of mass destruction and its financing (proliferation),

c) physical or legal person from the National List defined by the Government of Montenegro;

2) **assets and/or other property** shall mean financial assets, economic resources, property of any kind, whether tangible or intangible, movable or immovable, in whatever way acquired or made available, and legal documents and instruments of any form, including the electronic and digital ones, which prove the right to ownership or claim to such assets and/or property, including bank loans, travellers and bank cheques, money orders, shares, securities, bonds, bills of exchange and letters of credit i.e. credentials, and all interests, dividends and other revenue generated based on them or values earned with such assets and/or other property, as well as any other property that can potentially be used for acquisition of assets, goods or services;

3) **terrorist financing** shall mean:

- provision or collection of assets and/or property or an attempt to provide or gather them, in any way, directly or indirectly, with the intention to use them or with the knowledge that they may be used, in whole or in part, for preparing or for committing a terrorist act, by terrorists and/or terrorist organization,
- organisation or instruction of other persons to commit the criminal offence of terrorist financing,

- contribution for committing the criminal offence of terrorist financing by a group of persons who act for a common purpose and with the objective of continuing to commit the terrorist act or are aware of the intention of the group to commit the criminal offence of terrorist financing;

4) **terrorist act** shall mean:

- an action defined with one of the following international agreements: Convention for the Suppression of Unlawful Seizure of Aircraft (1970); Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971); Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973); International Convention against the Taking of Hostages (1979); Convention on the Physical Protection of Nuclear Material (1980); Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988); Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005); Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005); International Convention for the Suppression of Terrorist Bombings (1997) and International Convention for the Suppression of the Financing of Terrorism (1999),
- any other act the objective of which is to cause death or severe bodily harm to civilians or any other person who is not actively involved in hostilities in the case of armed conflict, when the purpose of such an act is to intimidate the population or force the government of a state or an international organisation to implement or fail to implement a particular action;

5) **terrorist** shall mean the person who:

- alone or together with other persons attempts at or commits a terrorist act in whatever form, directly or indirectly, and intentionally;
- alone or together with other persons organises or instructs the committing of a terrorist act,
- contributes to the committing of a terrorist act by a group of persons who act for a common purpose and with the objective of continuing to commit the terrorist act or is aware of the intention of the group to commit the terrorist act;

6) **terrorist organisation** shall mean the group of persons, or terrorists, who:

- attempt at or commit a terrorist act in whatever form, directly or indirectly, and intentionally;
- organise or instruct the committing of a terrorist act, or
- contribute to the committing of a terrorist act by a group of persons who act for a common purpose and with the objective of terrorist activity or are aware of the intention of the group to commit the terrorist act.

II. INTRODUCTION OF RESTRICTIVE MEASURES

Restrictive measures against designated persons on the United Nations List

Article 7

United Nations Security Council resolutions that define restrictive measures shall be published in original, immediately upon adoption, on the internet page of the state administration authority responsible for foreign affairs (hereinafter: Ministry) and those measures shall apply to designated persons on the United Nations List, without delay.

The application of a restrictive measure, without delay, in terms of Paragraph 1 of this Article, shall mean that within several hours, and no longer than 24 hours, upon decision of the United Nations Security Council or of the relevant sanctions committee, measures and actions will be taken for the purposes of preventing the escape or the disposition of assets and/or other property that is connected with designated persons on the United Nations List.

With regard to restrictive measures referred to in Paragraph 1 of this Article, the Ministry shall, immediately upon adoption of the United Nations Security Council resolution that defines those measures, and before publishing the resolution on the internet page, inform the authorities and subjects referred to in Article 16 Paragraph 1 of this law.

The Ministry shall, on its internet page, publish also any information about the change to the United Nations List, other acts of the United Nations Security Council related to application of the restrictive measures towards designated persons on that list, as well as the Guidelines on the General Practice for Improving the Effectiveness of United Nations Sanction (hereinafter: Guidelines).

Decision to introduce restrictive measure

Article 8

The decision to introduce restrictive measures referred to in Article 4 of this law shall be made by the Government of Montenegro (hereinafter: Government), on proposal by the Ministry.

The decision referred to in Paragraph 1 of this Article shall establish: the ground for introducing a restrictive measure, type of restrictive measure, manner of its application, method of action of the authorities and of other entities responsible for application of the restrictive measures, as well as the timeframe for application of the restrictive measure.

If the decision referred to in Paragraph 1 of this Article does not set the timeframe for application of the restrictive measure, the measure in question shall be terminated pursuant to a decision of the Government, pursuant to a proposal by the Ministry, upon cessation of the reason for its introduction.

The decision referred to in Paragraph 1 of this Article shall apply from the day of its adoption and shall be published in the "Official Gazette of Montenegro" and the internet page of the Ministry.

Restrictive measures against persons on the National List

Article 9

Restrictive measures referred to in Article 4 Paragraph 1 Point 6 of this law shall be imposed to both legal and physical persons who have been designated as terrorists or terrorist organisations or funders of terrorists or terrorist organisations on the National List defined by the Government, upon proposal by the National Security Council, pursuant to the provisions regulating the basis of the intelligence and security sector of Montenegro.

The National List referred to in Paragraph 1 of this Article shall be compiled based on:

- information of the Ministry about physical and legal persons who have been designated through European Union acts as terrorists, terrorist organizations, or funders of terrorism or terrorist organizations, as well as funders of terrorist acts,
- proposal by the National Security Agency of Montenegro, state administration authority responsible for police-related issues, state administration authority responsible for defense, administration authority responsible for prevention of money laundering and terrorist financing, and the state prosecutor's office,
- Reasoned proposal by another state.

Proposal by authorities for designation of persons on the National List

Article 10

The proposal referred to in Article 9 Paragraph 2 Indent 2 of this law shall include data and facts (description of circumstances with all evidence and available documentation, as well as information on assets and/or property which may be subject to a restricted disposition or acquisition) that indicate to the existence of a reasonable doubt that:

- the physical person has committed or has attempted at committing a terrorist act or is participating in or enabling the committing of a terrorist act,
- the legal person, trade company, entrepreneur, group or association is wholly or jointly owned or controlled, directly or indirectly by person that has committed or has attempted at committing a terrorist act or is participating in or enabling the committing of a terrorist act,
- physical or legal person, trade company, entrepreneur, group or association acts on the behalf of or at the instruction of person has committed or has attempted at committing a terrorist act or is participating in or enabling the committing of a terrorist act

The proposal referred to in Paragraph 1 of this Article shall be submitted to the National Security Council, without delay.

Request from another state for designation of a person on the National List

Article 11

The Ministry shall, without delay, submit to the National Security Council the request from another state for designation of a person on the National List.

The request referred to in Paragraph 1 of this Article shall include information about the physical person or legal person that is being proposed for designation on the National List, description of circumstances with all evidence and available documentation that verifies the

existence of a reasonable doubt and any connection to Montenegro, as well as information on assets and/or property which may be subject to a restricted disposition or acquisition.

The Ministry shall inform the state which had submitted the request referred to in Paragraph 1 of this Article that the person in reference to whom the request has been submitted has been designated on the National List, or about the reasons for which the person has not been designated on the National List, and if so required, may ask for additional information to be submitted in relation to the request.

Administrative dispute concerning the designation of persons on the National List

Article 12

The person designated on the National List may file a complaint to the Administrative Court of Montenegro (hereinafter: Administrative Court) against the decision by which he has been designated on the National List.

The Administrative Court procedure shall be considered urgent.

Resolution on the restrictive measure against persons on the National List

Article 13

The Government shall submit the act referred to in Article 9 Paragraph 1 of this law, as well as any amendment or supplement to this act, to the state administration authority responsible for internal affairs, which shall adopt, without delay, a resolution for imposing the restrictive measures on every person designated on the National List individually.

The resolution referred to in Paragraph 1 of this Article shall be submitted to the authorities and entities responsible for application of the restrictive measure, as well as to the designated person, without delay.

Authorities and entities responsible for application of the restrictive measure shall be obliged to act on the resolution, without delay.

The designated person may file a complaint to the Administrative Court against the resolution referred to in Paragraph 1 of this Article within eight days from the day of submission of the resolution.

The Administrative Court procedure shall be considered urgent.

Submission of a request to another state

Article 14

The Government, through the Ministries, shall submit a request to another state for restriction of the disposition of assets and/or other property to a designated person on the National List if there is information about connections of that person and the other state.

The request referred to in Paragraph 1 of this Article shall include the data necessary to determine the identity of the designated person, as well as other information about the reasons for which he has been designated on the National List.

Proposal for entry on the United Nations List

Article 15

The Government, through the Ministries, may propose that a person designated on the National List also be designated on the United Nations List referred to in Article 7 Paragraph 2 of this law, in case he has not already been entered on this list.

Enclosed with the proposal referred to in Paragraph 1 of this Article, information shall be submitted that indicate to the justification of the reasonable doubt that the person is a terrorist, is financing terrorism, is involved in activities of a terrorist organisations or terrorist act, information about the assets and/or property that may be subjected to restricted disposition and acquisition, as well as other information in compliance with the requests by responsible committees of the United Nations Security Council.

III. APPLICATION OF RESTRICTIVE MEASURES

Obligation concerning the application of restrictive measures

Article 16

Restrictive measures, each within their competence or field of operation, shall be applied by state authorities, state administration authorities, local self-government authorities and local administration authorities, banks and other financial organisations, other legal and physical persons that hold public authority or provide public service.

All physical and legal persons shall be obliged to refrain from any business relation, service provision or assistance to designated persons, as well as to persons connected with them directly or indirectly.

If a physical or legal person acquires knowledge of assets and/or other property that are connected to designated persons, they shall be obliged to report this to the state administration authority responsible for internal affairs, without delay.

Liability for damages

Article 17

The State of Montenegro, its authorities, legal and physical persons responsible for application of restrictive measures shall not be held liable for damages that may arise from the application of restrictive measures, unless the damage has been inflicted intentionally or through gross negligence.

Restriction of disposition and acquisition of assets and/or other property (freezing)

Article 18

The restriction of disposition and acquisition of assets and/or other property (freezing) shall mean the prohibition of transfer, conversion, disposition or trafficking of all assets and/or other property that is held in ownership, in possession or under control of the designated

persons, directly or indirectly, pursuant to and during the period of application of the restrictive measure, as well as of provision of financial and other services to the designated person.

The restrictive measure referred to in Paragraph 1 of this Article shall also refer to assets and/or other property:

- that can be connected to specific terrorist act, conspiracy or threat,
- that have originated from monetary or other assets held in ownership by the designated person,
- of physical or legal persons acting on the behalf of or at the order of the designated person.

Assets and/or other property the disposition and acquisition of which has been restricted by way of application of a restrictive measure shall not be made available to the designated person, except for cases referred to in Article 19 of this law.

Unfreezing a portion of the assets and/or other property

Article 19

During the application of the restrictive measure, the designated person shall have the right to file a request for approval of his use of a portion of the assets and/or other property, that is necessary for:

- basic living expenses,
- the costs of childbirth, death and other basic expenses of the designated person and members of his family,
- medicines and medical treatment of the person or a member of his family,
- payment of obligations to the state (taxes, duties, insurances, etc.),
- reporting of costs for regular maintenance of assets and/or other property the disposition and acquisition of which has been restricted with the application of the restrictive measure, and
- costs of legal assistance.

If the request referred to in Paragraph 1 of this Article is filed by a person from the United Nations List, the Ministry shall inform thereof the responsible committee of the United Nations, in compliance with the Guidelines.

The state administration authority responsible for internal affairs, within five days from the day of reception of the request referred to in Paragraph 1 of this Article, shall adopt a resolution for unfreezing a portion of assets and/or property or for rejecting the request.

The state administration authority responsible for internal affairs shall define the size and the amount of assets necessary for settlement of costs referred to in Paragraph 1 of this Article with the resolution referred to in Paragraph 3 of this Article based on the opinion provided by the state administration authority responsible for labour and social care.

The resolution referred to in Paragraph 3 of this Article shall be submitted to the submitter of the request referred to in Paragraph 1 of this Article within three days from the day of adoption, as well as to the authorities and entities managing the assets.

The designated person may file a complaint to the Administrative Court against the resolution referred to in Paragraph 3 of this Article within eight days from the day of submission of the resolution.

The Administrative Court procedure shall be considered urgent.

Protection of conscientious third parties

Article 20

Assets and/or other property the disposition of which has been restricted in compliance with this law may become subject to an enforcement of a court decision the purpose of which is the protection of conscientious third parties.

IV. LIFTING OF RESTRICTIVE MEASURES

Lifting of restrictive measures defined with United Nations Resolutions

Article 21

The Ministry shall publish on its internet page the decisions of the United Nations Security Council for lifting the restrictive measures referred to in Article 7 of this law and shall, at the same time, inform the authorities and entities responsible for application of restrictive measures, without delay.

Authorities and entities referred to in Paragraph 1 of this Article shall be obliged to take measures and activities within their competences to terminate the application of restrictive measures.

Lifting of restrictive measures defined with a decision by the Government

Article 22

With reference to termination of validity or lifting of restrictive measures imposed pursuant to Article 8 Paragraph 1 of this law, the Ministry shall inform the authorities and entities responsible for application of restrictive measures, which shall be obliged to take the measures and activities referred to in Article 21 Paragraph 2 of this law, without delay.

Lifting of restrictive measures against persons on the National List

Article 23

When authorities referred to in Article 9 Paragraph 2 Indent 2 of this law determine that reasons have ceased for designation of a person on the National List, they shall propose to the National Security Council to delete these persons from the National List.

The Government, upon proposal by the National Security Council, shall adopt an act for deleting the designated person from the National List, which shall be submitted to the state administration authority responsible for internal affairs, so that they can adopt a resolution for termination of application of restrictive measures towards the designated person.

The act from Paragraph 2 of this Article shall be brought without delay.

Information about introduction, application and lifting of restrictive measures

Article 24

The Ministry shall, through diplomatic channels, inform the United Nations about the introduction, application and lifting of restrictive measures referred to in Article 9 of this law, without delay.

Pursuant to a request from another international organisations and/or another interested state, for introduction, application and lifting of restrictive measures, the Ministry shall inform that organisation or state.

The Ministry may, through diplomatic channels, request deletion of designated persons from the United Nations List in a way regulated with the Guidelines.

V. DATABASE ON RESTRICTIVE MEASURES

Keeping of the Registry(database)

Article 25

The database of restrictive measures applied to physical and legal persons shall be kept in compliance with this law.

The database of restrictive measures referred to in Article 4 Paragraph 1 Point 1 through 4 of this law shall be kept by the Ministry.

The database of restrictive measures referred to in Article 4 Paragraph 1 Point 5 and Article 13 Paragraph 2 of this law shall be kept by the state administration authority responsible for internal affairs.

The database referred to in Paragraph 2 and 3 of this Article shall be kept in electronic form.

Contents of the database

Article 26

The database, referred to in Article 25, Paragraphs 2 and 3 shall contain information about:

- 1) restrictive measures – date of introduction i.e. commencement of application, date of lifting i.e. termination of application of the restrictive measure, the authority or another entity that applies the restrictive measure and other information concerning the application of the restrictive measure;
- 2) physical persons that restrictive measures apply to – name and surname, date and place of birth, the permanent or habitual residence, nationality, type and number of photograph identification document or personal identification number, as well as

information about assets and/or other property that these persons hold on the territory of Montenegro;

- 3) legal persons that restrictive measures apply to – name and seat of the legal persons, name and surname or the name and seat of the authorised representative, entity identity number and tax number, as well as information about assets and/or other property that these persons hold on the territory of Montenegro.

The decision for introduction of the restrictive measures, as well as the act of the international organisations or another entity that served as grounds for the introduction of the restrictive measure shall be an integral part of the database

Submission of data

Article 27

The Ministry shall submit the information contained in the database, referred to in Article 25, Paragraphs 2 and 3, to international organizations and interested states, in line with the obligations that Montenegro has pursuant to international conventions, and in compliance with regulations governing the personal data protection and classification of information.

Storage of data

Article 28

The data from the database, referred to in Article 25, Paragraphs 2 and 3, shall be stored for five years upon termination of application of restrictive measures.

Upon expiry of the period referred to in Paragraph 1 of this Article, the data shall be deleted i.e. destroyed, in compliance with the regulations governing the personal data protection and archiving operations.

Data protection

Article 29

Regulations governing personal data protection and classification of information shall apply to the collection, processing, use and destruction of data from the database referred to in Article 25, Paragraphs 2 and 3.

Physical persons shall have the right to inspect, as well as to correct or have deleted the data from the database, referred to in Article 25, Paragraphs 2 and 3, that refer to them in compliance with regulations governing the personal data protection and classification of information.

Protection of data on legal persons

Article 30

The legal person shall have the right to inspect, correct and have deleted the data from the database referred to in Article 25, Paragraphs 2 and 3, which are incorrect or have been kept contrary to this law.

The law regulating the administrative procedure shall apply to the procedure for deciding on the request referred to in Paragraph 1 of this Article.

VI. SUPERVISION

Supervising the enforcement of this law

Article 31

The supervision over the enforcement of this law shall be carried out, each within their competences, by state administration authorities and supervising authorities stipulated in the law that regulates the prevention of money laundering and terrorist financing.

VII. PENAL PROVISIONS

Article 32

A legal person shall be sanctioned for violation with a fine in the amount of 1,000 euro to 40,000 euro if it:

- 1) fails to act, without delay, on the resolution defining the restrictive measures for each designated person on the National List (Article 13 Paragraph 3);
- 2) within the scope of its competences, fails to apply the restrictive measures (Article 16 Paragraph 1);
- 3) carries out business relations, provides services or assistance to designated persons, as well as to persons connected with them directly or indirectly (Article 16 Paragraph 2);
- 4) fails to report to the state administration authority responsible for internal affairs, without delay, about its knowledge of assets and/or other property that are connected to designated persons (Article 16 Paragraph 3);
- 5) makes the assets and/or other property, the disposition and acquisition of which has been restricted with application of restrictive measures, available to the designated person, except in cases of unfreezing of a portion of assets and/or other property in compliance with this law (Article 18 Paragraph 3).
- 6) within the scope of its competence, fails to take measures and activities for termination of application of a restrictive measure (Article 21 Paragraph 2).

For violation referred to in Paragraph 1 of this Article, the responsible person within the legal entity shall as well be sanctioned with a fine in the amount of 500 euro to 4,000 euro.

For violation referred to in Paragraph 1 of this Article, a physical person shall be sanctioned with a fine in the amount of 500 euro to 4,000 euro.

Article 33

The responsible person within the state administration body shall be sanctioned with a fine in the amount of 500 euro to 4,000 euro if:

- 1) he fails to submit a proposal, without delay, to the National Security Council, and having identified that criteria have been met as referred to in Article 10 Paragraph 1 of this law (Article 10 Paragraph 2);
- 2) fails to act, without delay, on the resolution defining the restrictive measures for each designated person on the National List (Article 13 Paragraph 3);
- 3) within the scope of his competences, fails to apply the restrictive measures (Article 16 Paragraph 1);
- 4) makes the assets and/or other property, the disposition and acquisition of which has been restricted with application of restrictive measures, available to the designated person, except in cases of unfreezing of a portion of assets and/or other property in compliance with this law (Article 18 Paragraph 3).
- 5) within the scope of his competence, fails to take measures and activities for termination of application of a restrictive measure (Article 21 Paragraph 2).

For violation referred to in Paragraph 1 Point 3 of this Article, the responsible person within the local self-government authority and local administration authority shall as well be sanctioned with a fine in the amount of 500 euro to 4,000 euro.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Application of previously introduced restrictive measures

Article 34

Restrictive measures introduced pursuant to the Law on International Restrictive Measures (The Official Gazette of Montenegro No. 3/15 and 42/17) shall apply until expiry of their validity, or lifting, in compliance with this law.

Repealing of the earlier law

Article 35

The Law on International Restrictive Measures (The Official Gazette of Montenegro No. 3/15 and 42/2017) shall be repealed on the day when this law enters into force.

Entry into force

Article 36

This law shall enter into force on the eighth day from the day of its publication in the Official Gazette of Montenegro.

No: 31-4/18-1/4

EPA 482 XXVI

Podgorica, 27th July 2018

Parliament of Montenegro of 26th Convocation

President
Ivan Brajović