

DISCLAIMER: Please note that the translation of the legal text provided below is only a provisional translation and therefore it does NOT represent an official document of Republic of Albania. It is meant purely as a documentation tool and EURALIUS does not assume any liability for its contents.

Date of last check: 2017 07 24

LAW¹
No. 157/2013
ON THE MEASURES AGAINST TERRORISM FINANCING

Pursuant to articles 78 paragraph 1, 83 paragraphs 1 and 2 of the Constitution, upon the proposal of the Council of Ministers,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope of the Law

This law sets out the measures against terrorism financing, competencies and relations among the bodies responsible for their proposal, adoption, control, and implementation.

Article 2

Aim of the law

This Law aims at prevention and suppression of terrorists' activities and those individuals who support financing of terrorism, or those on whose regard there are grounded suspicions that they have committed, are committing or have the intention to commit such

¹ *This Law is amended by Law no. 43/2017, approved on 6.7.2017, promulgated by the Decree of the President of the Republic no. 10148, dated 19.04.2017, published in the Official Gazette no. 85 dated 21 April 2017.*

This Law shall enter into force 15 days after the publication in the Official Gazette.

activities, through freezing and seizing of their funds and properties, pursuant to the relevant resolutions of the United Nations Security Council, activities of other international organizations and international agreements the Republic of Albania is party to.

Article 3

Definitions

Within this law, except when defined explicitly otherwise in its specific provisions, the following terms mean:

1. "Temporary freezing" is the blocking of any transaction or participation in transferring, alteration, alienation or displacement of funds and other properties, according to the terms and the validity of actions undertaken by the relevant authorities, in conformity with this law. Funds and other properties blocked temporarily remain under the ownership of the persons that have property rights over them at the moment of the imposition of the measure for the temporary blocking.

2. "Seizure" is the suspension of any transaction or participation in transferring, alteration, alienation or displacement of funds and other properties of assets and other properties, according to the terms and the validity of actions undertaken by the relevant authorities, in conformity with this law. The seized funds and other properties remain under the ownership of the persons that have property rights over them at the moment of the imposition of the seizing measure.

3. "Funds and other properties", are the financial assets, monetary deposits and properties of any kind, movable or immovable, regardless of the manner of acquisition, as well as the legal documents or instruments of any kind, including electronic and digital ones that prove the ownership or interests in these funds and other properties. These include, but are not limited to, bank credits, bank or traveler's cheques, payment orders, shares, securities, government bonds, payments, letters of credit and any other interest, dividend or other incomes and values collected or generated from funds or other properties.

4. "Terrorist", is any person, Albanian citizen, foreigner or stateless, a natural or legal person, who is suspected of having committed or has attempted to commit one or more of the offenses referred to in the Article 230 of the Criminal Code.

5. "Person that finances terrorism", is any person, Albanian citizen, foreigner or stateless, a natural or legal person of any form or designation, registered or not who is suspected of having committed or has attempted to commit one or more of the offenses referred to in the Articles 230/a and 230/b of the Criminal Code.

6. "Designated person", is any person, Albanian citizen, foreigner or stateless, natural or legal person of any form or designation, registered or not;

a) who is described and included in the list as a terrorist or person that finances terrorism, with the Council of Ministers decision, based on the resolutions of the United Nations Security Council, relevant acts of the international organizations or other international agreements the Republic of Albania is party to;

b) who, is so designated by the Council of Ministers decision, on the basis of Resolution 1373 (2001) of the United Nations Security Council, other resolutions pursuant to it or other similar resolutions which are related to the fight against terrorism financing, in accordance with the internal procedures provided in this Law.

7. "Interested person", is any person who in good faith has or claims to have a legitimate property right on funds and other properties of the designated person.

Article 4

The scope of application

This law is applied for designated persons and persons on whom the designation procedure has been initiated, or on whose regard exist founded suspicions of involvement in any form of terrorism and its financing, committed within or outside the territory of the Republic of Albania.

Article 5

Inclusion on the list of designated persons

1. The Council of Ministers, upon the proposal of the Minister of Foreign Affairs, pursuant to the relevant resolutions of the United Nations Council of the Security, approves the list of designated persons and undertaking of measures to implement obligations emanating from these resolutions.

2. The Council of Ministers, upon the proposal of the Minister of Finance, pursuant to Resolution 1373 (2001) of the United Nations Security Council, any international agreements to which Albania is party to, the decisions of the European Union or the decision of another state, related to combating terrorism and its financing, may decide to include them in the list of designated persons. The Council of Ministers may refuse to include persons in the list when:

- a) it is contrary to the fundamental principles of law;
- b) it is likely to affect the sovereignty, national security, public order or other essential interests of the state.

Article 6

Measures on funds and other property

1. The Minister of Finance may, until the approval of the Council of Ministers decision on inclusion in the list of designated persons, order the temporary freezing of funds or other property regarding persons on whom the designation procedure has been initiated and on whose behalf there are grounded suspicions of involvement in any form, in acts of terrorism and its financing, committed or intended to be committed, within or outside the territory of the Republic of Albania.

2. Council of Ministers decides to prohibit provision of financial services and transactions with funds or other property of designated persons.

3. Pursuant to identification and verification by the responsible authorities, the Minister of Finance orders the seizure of funds and other property of persons designated by the Council of Ministers.

4. The envisioned measures are applied to all funds and other properties upon which the designated person exercises rights of ownership, control, or other interests regardless of who possesses or uses the funds or other properties, as well as for each fund and other property that is found in possession of or held by the designated persons.

5. Application of the temporary freezing or seizure does not impede the collection of interests and profits from other funds and properties. These measures are automatically imposed on other funds and properties acquired after their implementation.

6. No actions or transactions are allowed for other funds and properties, which are frozen or seized temporarily, except in cases provided explicitly in the law and stipulations thereto set down in the relevant act of temporary freezing.

CHAPTER II
RESPONSIBLE AUTHORITIES AND OBLIGATIONS OF THE SUBJECTS TO
COOPERATE

Article 7

Responsible Authorities for the implementation of measures against terrorism financing

1. The responsible authorities for the implementation and supervision of the measures provided for in this law are:

a) The Bank of Albania and the Financial Supervisory Authority for the entities that they license and/or supervise;

b) The Ministry of Justice for the Immovable Properties Registration Office and notaries;

c) Ministries or the relevant authorities, for subordinated institutions and entities that license and/or supervise, maintain or manage the registries of the funds and other properties.

2. The oversight authorities supervise through inspections the compliance of the activity of the subjects that they license and/or supervise. For the purposes of this Law, and notwithstanding specifications of any other law, oversight authorities may demand from a subject the production or access to any information or documents related to that subject's compliance with this Law.

3. The oversight authorities perform also the following duties:

a) check the implementation by the entities of measures against terrorism financing as well as ensure the adequacy of these measures;

b) inform in a timely manner and cooperate with the General Directorate for the Prevention of Money Laundering on issues of noncompliance, the results of their inspections, corrective measures to be taken and administrative sanctions, if applied;

c) cooperate with the General Directorate for the Prevention of Money Laundering and provide specialized assistance in accordance with their domain of activity, in the field of implementation of measures against financing of terrorism;

ç) prepare and distribute training programs within the scope of the implementation of this law.

Article 8

Collection and administration of data

1. General Directorate for the Prevention of Money Laundering undertakes measures for the collection and administration of data for:

a) designated persons or persons for whom the internal designation procedures has been initiated;

b) funds and other properties in possession of or linked to other rights or interests of designated persons or those undergoing internal designation procedure.

2. Collection, processing, analysis, safeguarding and usage of data for the implementation of measures against terrorism financing, are performed by the General Directorate for Prevention of Money Laundering in accordance with this law.

Article 9

Data exchange

(Words added by Law no. 43/2017, article 1)

The Minister of Finance, the Minister of Interior, the Minister of Foreign Affairs, the Minister of Justice, the Minister of Defense, the General Prosecutor, **the Chief Special Prosecutor**, the Director of the State Information Service and the Governor of the Bank of Albania, according to their field and responsibilities, exchange information and data on national and international level regarding designated persons, for whom there are grounded suspicions of involvement in any form, in acts of terrorism and its financing or on whom the internal designation procedures have been initiated.

Article 10

Reporting obligation

1. Reporting subjects or institutions stipulated in the Law no. 9917, dated 19.05.2008 on "The prevention on money laundering and financing terrorism "as amended, are obliged to report immediately to the General Directorate for the Prevention of Money Laundering, if they have information or suspicions about financial actions, transactions, funds or other acts, committed or attempted to be committed, with the aim to carry out or finance terrorist acts, regardless of their value.

2. Any person that is aware of financial actions, transactions, funds or other acts committed or attempted to be committed, aimed at carrying out or financing terrorist acts, have the obligation to immediately inform the law enforcement agencies or the General Directorate for the Prevention of Money Laundering.

3. The notification and the reporting, should include the data for the identification of funds and other properties, data regarding ownership and other interests thereto, as well as explanations for the motives on which the pertinent terrorism financing data were grounded.

4. The General Directorate for the Prevention of Money Laundering, upon reasons grounded on concrete facts or circumstances for financing of terrorism, proposes immediately to the Minister of Finance, the temporary freezing of funds and other properties.

Article 11

Protection of the identity

The authorities that obtain reports pursuant to article 10, of this law, are obliged to safeguard the identity of the reporting persons, subjects and their staff.

Article 12

Prohibition of publishing the data

1. The data obtained in pursuance of this law may be used only for the purposes of the implementation of this law, for criminal investigations or other aims defined by law.

2. The responsible authorities, reporting subjects and their employees that obtain data, notifications and reports, in pursuance of this law cannot publicize the facts, they are made aware of in the exercise of their duty.

3. The responsible authorities, reporting entities and their employees have the obligation to provide to the court the requested documents and to testify only in cases provided for in article 160 of the Criminal Procedure Code.

Article 13

Protection of persons, entities or responsible authorities in good faith

Persons, subjects, directors, officials and temporary or permanent employees of the subjects that in good faith comply or seek to comply with the provisions of this law, are exempted from criminal, civil, or administrative liability arising due to the notification or reporting.

CHAPTER III

DRAFTING OF THE DESIGNATED PERSONS LIST AND UNDERTAKING MEASURES AGAINST FUNDS AND OTHER PROPERTIES

Article 14

Designation procedure based on the resolutions of the United Nations Security Council.

1. The Minister of the Foreign Affairs within 5 days from the decision of the United Nations Security Council, proposes to the Council of the Ministers to include a person in the list of the designated persons while at the same time notifying the responsible authorities, the law enforcement agencies, intelligence services and the Minister of Finance who may decide to temporary freeze the funds and other properties of these persons.

2. The definitions of the resolutions of the Council of Security of the United Nations, constitute reliable data that the person is a terrorist or one who finances terrorism.

3. The Council of Ministers, within 15 days from obtaining the proposal by the Minister of Foreign Affairs, decides on their inclusion in the list of the designated persons.

Article 15

Internal designation procedures

(Words added at the point 2 by Law no. 43/2017, article 2)

1. Responsible authorities, law enforcement agencies, intelligence services, the Ministry of Foreign Affairs and the General Directorate for the Prevention of Money Laundering, when in the exercise of their duties and functions obtain notifications or suspicions based on circumstantial evidence concerning the involvement of persons in any form, in terrorist acts or the financing of terrorism, committed or attempted to be committed, within or outside the territory of the Republic of Albania, are obligated to propose

immediately to the Minister of Finance their inclusion in the list of the designated persons as well as undertake measures envisioned in this law.

2. For the analyses of the proposed cases referred to in paragraph 1, of this article and those provided for in paragraph 2 of article 5 of this law, the Minister of Finance may convene a Special Advisory Committee with representatives at management level from the Ministry of Interior, Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Defense, General Prosecution Office, **Special Prosecution Office**, the State Intelligence Service, Bank of Albania General Directorate for the Prevention of the Money Laundering and **National Bureau of Investigation**.

3. The Minister of Finance may propose to the Council of the Ministers, to include in the list of the designated persons, the persons proposed according to paragraph 1 of this article.

4. The Council of the Ministers, within 15 days from obtaining the proposal from the Minister of Finance, may decide to include in the list of the designated persons, the persons or entities proposed by the Minister of Finance in accordance with paragraph 3 of this article.

Article 16

Temporary freezing

(Amended point 1 by Law no. 43/2017, article 3)

1. The Minister of Finance may order, without prior notification, the temporary freezing of the assets and other properties, before the issuance of the relevant decision of the Council of the Ministers, when this is the only way to prevent circumvention of the implementation of measures provided in this law and **may shall** inform the General Prosecutor and **the Chief Special Prosecutor**, for the purpose of a potential penal process.

2. The order of the Minister of the Finance for the temporary freezing of funds and other properties enters into force immediately and it is valid for a period of no more than 30 working days, starting from the first day after the issuance of the order. This order is communicated for execution to the responsible authorities provided in the article 7 of this law.

Article 17

Appeal against the temporary freezing

1. The interested person has the right to appeal in the competent court, the order of the Minister of the Finance, on the temporary freezing of assets and other properties, within 5 days from the notification

The court considers the case within 10 days, by applying the provisions for the administrative trials. In every case, the appeal does not suspend the immediate execution of the Order of the Minister of Finance.

3. The interested person has the obligation to prove to the Court that:

a) has a legal right in the funds and the other properties of the designated person, defined in the order of the Minister of Finance;

b) has legally justified sources for his rights and interests in the funds and other properties;

c) funds and other properties, subject of the trial, are not linked to terrorists, persons that finance terrorism or other persons related to them.

4. The interested person is considered as notified, with regard to the order of the Ministry of Finance, from the date he has been made aware. In every occasion, the case is considered within the timeframe provided for in paragraph 2, of this article.

Article 18

Decision of the Council of the Ministers

1. The Council of Ministers, upon the proposal of the Minister of Foreign Affairs or the Minister of Finance decides on the approval, modification or revocation of the list of the designated persons, to whom measures against financing of terrorism apply.

2. The Decision of the Council of the Ministers enters into force immediately, is communicated to the responsible authorities provided in the article 7 of this law and is published in the Official Gazette.

3. The Minister of the Finance, within 5 days from the publication of the Decision of the Council of the Ministers in the Official Gazette, informs the Minister of Foreign Affairs about the persons designated based on evidence within the country.

4. The Ministry of Foreign Affairs, after being notified in accordance with the provisions of the paragraph 3, of this article, within 15 days informs the respective bodies of the United Nations Security Council, and proposes the inclusion of the persons in the corresponding lists.

Article 19

Appeal against the Decision of the Council of the Ministers

1. The person designated, pursuant to the lists of the United Nations Security Council, may lodge in the competent court, an appeal against the decision of the Council of the Ministers, within 15 days from notification. The right of appeal can be used only when the person claims that he is wrongly identified with the designated person.

2. No compensation may be requested from the Albanian state concerning the damages incurred in the execution of the resolutions of the United Nations Security Council, except the cases when the damage is caused intentionally or due to its fault.

3. The designated person, in accordance with paragraph 2, of article 5, of this law, may lodge in the competent court an appeal, against the decision of the Council of the Ministers, within 15 days from the notification.

4. The court examines the case based on the provisions for administrative trials. The appeal does not suspend the immediate execution of the decision and other measures, taken for its implementation.

Article 20

Invalidity of the actions on funds and other properties

Actions or transactions performed on funds and other properties, after the entry into force of the temporary freezing order or the decision of the Council of the Ministers, are absolutely invalid.

Article 21

Verification of the identity, funds and other properties

1. The Ministry of Interior verifies the identity of the designated persons, who are subjected to the procedures as designated persons or on whose regard the designation procedure has been initiated and funds as well as other properties have been identified.

2. The responsible authorities provided in the article 7 of this law, within 3 days of getting acquainted with the decision of the Council of the Ministers, delegate it for execution to the subordinated institutions, the entities that they license and/or supervise.

3. The subordinated institutions or obliged entities, within 10 days from the notification, verify and report to the respective responsible authority regarding funds and other properties, held directly or indirectly, as well as other interests or rights.

4. With respect to funds and other properties, which it was not possible to be identified within the aforementioned timeframe, the reporting to the responsible authority, will be done immediately after the identification.

5. The responsible authorities should immediately, and in any case not later than 3 days from the notification from subordinated institutions, the entities that they license and/or supervise, send a written report to the General Directorate for the Prevention of Money Laundering, providing the data about interests and rights over the funds and other properties of the designated person.

6. The General Directorate for the Prevention of Money Laundering, within 3 days from the notification by the responsible authorities regarding funds and other properties identified, proposes to the Minister of the Finance the issuance of the seizing order.

Article 22

The seizing of funds and other properties

1. In pursuance of the Decision of the Council of Ministers, the Minister of Finance, within 5 days from the presentation of the proposal of the General Directorate for Prevention of Money Laundering, issues the seizing order for funds and other properties and their transfer in the administration of the Agency of Administration of Seized and Confiscated Assets.

The order becomes effective immediately and is communicated to the designated person, in accordance with the provisions of the Code of Administrative Procedures.

2. The order of the Minister of Finance is submitted to the Agency for the Administration of Seized and Confiscated Assets and to the institutions, obliged entities, and the supervisory authorities, in which funds and other properties have been found, that undertake measures for its immediate execution.

3. Upon the execution of seizure, the Agency of Administration of Seized and Confiscated Assets exercises all rights of control over the seized funds and other properties, including possession, administration and other actions it deems as necessary.

4. Rules and procedures for the administration, expenses for the administration and the return of the funds and other properties seized under this law shall be determined by the Council of Ministers decision.

Article 23

Allowed expenses from funds and other properties

1. The Minister of the Finance, within 5 days from the submission of the request, authorizes payments from assets and other seized properties to be used for medical, family

and personal needs of the designated person, for the payment of obligations toward the state or those deriving from the work performed and obligatory insurances.

2. The order of the Minister of Finance, rejecting the authorization of expenses, can be appealed in the competent court, within 5 days from the notification

3. The Minister of Finance with a specific instruction, sets down detailed rules and procedures for the permitted expenses, taking into account the criteria provided from resolutions of the United Nations Security Council.

Article 24

Appeal against the seizing order

1. The designated persons and the interested persons that pretend to be in good faith may lodge an appeal in the competent court against the order of the Minister of Finance for the seizure of the funds and other properties, not later than 30 days from notification regarding the seizing order.

In any case, the appeal cannot suspend the immediate execution of the seizing order and other measures taken for its implementation.

2. The interested persons, that pretend to be in good faith, apply the obligations set forth in paragraph 3, of article 17 of this law.

Article 25

Change and revocation of the decision for designated persons

1. The Council of the Ministers may decide the change or the revocation of the list of the designated persons within 15 days from the submission of the proposal of the Minister of Finance, the Minister of Foreign Affairs or based on the request of the designated person, along with the explanations for the change of the respective circumstances that have motivated the issue of the decision.

2. The Minister of Foreign Affairs based on the changes or the revocations in the resolutions of the Security Council of the United Nations, within 5 days from the publications of such decisions, proposes to the Council of the Ministers changes or revocations in the list of the designated persons, notifying at the same time the Minister of Finance.

3. The Minister of Finance, based on the proposals of the authorities and institutions referred to in Article 15, paragraph 1, or in the assessment of the Special Advisory Committee, proposes to the Council of Ministers changes or the revocations of the persons from the list of designated persons.

4. The change or the revocation of the decision of the Council of the Ministers regarding the list of the designated persons is performed only when ascertainable circumstances and facts exist that make further implementation unnecessary due to a:

a) later decision issued from the United Nations Security Council, according to Chapter VII of the Chart of the United Nations, regarding cases provided for in paragraph 1 of article 5 of this law;

b) An obligation to the Republic of Albania imposed or arising in accordance with article 25 of the Chart of the United Nations.

c) relevant decision of other international organizations, European Union, or an international agreement Albania is party to.

ç) delisting decision regarding the designated person, taken upon the request of the country seeking designation.

d) final decision of the competent court that was taken on the the appeal of the designated person as provided in the paragraphs 1 and 3 of Article 19;

dh) change of the circumstances, facts and reasons upon which the designation was made, in accordance with article 15 of this law.

5. The revocation of the seizing measure against the funds and other properties of designated persons as a result of the change or revocation of the list of designated persons is carried out within 3 months from the entry into force of the Decision of the Council of Ministers.

6. When the seizing measure against funds and other assets is revoked, the property owner is entitled to income of the property gained during the administration. He has the right to request compensation equivalent to the amount of the reduction of the value of the property or the damage that has been caused to the property by fault.

Article 26

Criminal and patrimonial proceeding

Notwithstanding the implementation of the provisions of this law, the prosecutor and the court, pursuant to the provisions of the criminal procedures or the law no.10 192, December 03 2009 “On preventing and striking at organized crime and trafficking through preventive measures against assets”, may proceed with the seizure and confiscation of funds and other properties, frozen temporarily or seized in implementation of this law.

CHAPTER IV

SANCTIONS

Article 27

Administrative violations

1. Non-compliance by the responsible bodies and subjects with the obligations provided for in this Law, when it is not considered a criminal offence, constitutes an administrative violation and is sanctionable with a fine from 50 thousands to 10 million Lek.

2. The General Directorate for the Prevention of Money Laundering will be the responsible authority for the control and supervision of the compliance of the activity of subjects of law with the requirements of legal acts and bylaws on the measures against terrorism financing.

3. Administrative sanctions, based on paragraph 1, of this article, are imposed by the Minister of the Finance with the proposal of the General Directorate for the Prevention of Money Laundering.

4. The procedures for the review, appeal and execution of the decisions on administrative violations are done in conformity with the Law no. 10 276, May 20 2010, “On administrative violations”.

CHAPTER V
TRANSITIONAL AND FINAL PROVISIONS

Article 28

Transitional provisions

1. Sublegal acts enacted pursuant to the Law no. 9258, July 15 2004 "On measures against terrorism financing", will remain in effect, as long as they are not inconsistent with this law.

2. This law applies also to criminal offences related to terrorism, as well as funds and other assets that have served for the financing of terrorism, committed before the entry into force of this law.

Article 29

Adoption of sublegal acts

1. The Council of Ministers and the Minister of Finance in accordance with Article 22, paragraph 4 and Article 23, paragraph 3 of this Law, within 3 months from its entry into force, have to issue the sublegal acts for their implementation.

Article 30

Repeals

Law nr. 9258, dated 15.07.2004 "On measures against terrorism financing", is repealed.

Article 31

Entry into force

This law enters into force 15 days after publication in the Official Gazette.

Approved on 10.10.2013

Promulgated by decree no. 8367, dated 28.10.2013 of the President of the Republic Bujar Nishani

Approved on 6.4.2017

Promulgated by decree no. 10148, dated 19.04.2017 of the President of the Republic Bujar Nishani