



CABINET OF MINISTERS OF THE REPUBLIC OF AZERBAIJAN

On adoption of the Regulation on approval of the General List of natural or legal persons designated *within the frame of countering the financing of terrorism*

ORDINANCE № 124

Baku, 25 June 2010

In order to provide the implementation of Paragraph 1.3 of the Decree # 241 dated 17 March 2010 of the President of the Republic of Azerbaijan «On application of the Law of the Republic of Azerbaijan «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism», Cabinet of Ministers hereby order the following:

1. The Regulation on approval of the General List of natural or legal persons designated *within the frame of countering the financing of terrorism* shall be approved (attached).
2. The Ordinance is effective since the date of its signature.

A.Rasi-zade
Prime Minister of the Republic of Azerbaijan

REGULATION

on approval of the General List of natural or legal persons designated *within the frame of countering the financing of terrorism*

I. General provisions

1. This Regulation has been developed in accordance with the Law of the Republic of Azerbaijan «On prevention of the legalization of criminally obtained funds or other property and the financing of terrorism»; Decree # 241 dated 17 March 2010 of the President of the Republic of Azerbaijan «On application of the Law of the Republic of Azerbaijan «On amendments to a number of legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism»; Decree # 920 on 11 May 2002 of the President of the Republic of Azerbaijan «On Action Plan to provide implementation of the UN Security Council Resolutions #1368 dated 12 September 2001, #1373 dated 28 September 2001, #1377 dated 12 November 2001 and the successor UN Security Council Resolutions on counter terrorism.

2. This Regulation establishes the procedure of approval of the General List of natural or legal persons designated *within the frame of countering the financing of terrorism* (hereinafter – General List), amendments to the General List, as well as identify duties of *the bodies* of the Republic of Azerbaijan.

3. *The General List shall consist of the Domestic List determined in accordance with Paragraph 6 of this Regulation on the basis of the legislation of the Republic of Azerbaijan and international instruments which Republic of Azerbaijan is party to and International List determined in accordance with Paragraph 12 of this Regulation, which is based upon relevant United Nations Security Council Resolutions.*

3-1. *The decision to designate the person within the frame of countering the financing of terrorism may be appealed against at the court as prescribed by the Administrative Procedure Code of the Republic of Azerbaijan.*

4. The General List shall be adopted by *the Financial Monitoring Service of the Republic of Azerbaijan (hereinafter – Financial Monitoring Service) and posted without delay on the same day on its official website* and, pursuant to the legislation of the Republic of Azerbaijan on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism, sent to the supervision authorities, as well as to financial institutions and DNFBPs either directly or through relevant supervision authorities.

5. Being preventive in nature, the General List aims to apply following preemptive measures while observing the principle of the presumption of innocence:

5.1. *freeze without delay the assets of the designated persons as well as the assets of the legal persons owned or controlled by the designated persons, natural and legal persons acting on their behalf or at their direction and prevent the financing of terrorism;*

5.2. prevent the direct or indirect supply, sale, or transfer, to the natural and legal persons designated in the General List, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.

II. The procedure for Domestic List

6. Domestic List shall be determined by *the State Security Service of the Republic of Azerbaijan (hereinafter – State Security Service)* either directly or by the reference of the General Prosecutor's Office of the Republic of Azerbaijan, Ministry of Internal Affairs of the Republic of Azerbaijan, Ministry of Justice of the Republic of Azerbaijan, State Border Service of the Republic of Azerbaijan *and Foreign Intelligence Service of the Republic of Azerbaijan*, and submitted to the *Financial Monitoring Service* for confirmation.

7. Following natural or legal persons shall be included to the Domestic List:

7.1. legal entities with regard to which there are legally binding court decisions on their liquidation for involvement in terrorist activities as duly defined by the legislation of the Republic of Azerbaijan;

7.2. persons sentenced on the basis of the legally binding court sentences as duly defined by the legislation of the Republic of Azerbaijan for preparation, organisation or carrying out the acts which constitutes a crime within the scope and as defined in the articles 102, 214, 214-1, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan;

7.3. persons with regard to whom there are decisions on initiating a criminal proceeding or involving them as the accused as duly defined by the legislation of the Republic of Azerbaijan for preparation, organisation or carrying out the acts which constitutes a crime within the scope and as defined in Articles 102, 214, 214-1, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan;

7.4. natural or legal persons with regard to whom there are legally binding court decisions of the foreign states on their involvement in terrorist activities recognized as duly defined by the legislation of the Republic of Azerbaijan and international instruments which the Republic of Azerbaijan is a party to;

7.5. *Upon identifying sufficient grounds or the request from a foreign competent authority being considered substantiated, on the basis of the decision of the State Security Service, natural or legal persons who participated in committing terrorism and financing of terrorism offences, assisted in committing or tried to commit these offences, legal persons who are directly and indirectly under control, ownership or use of such persons as well as natural and legal persons who act on behalf or under instruction of such persons.*

7-1.If there are sufficient grounds to suppose that the persons mentioned in the requests of foreign competent authorities meet the criteria provided for in Paragraph 7.5 of the Regulation, the State Security Service takes the decision to include the persons mentioned in the request into the Domestic List. When taking such decision, the State Security Service holds the right to request from the requesting party the information which demonstrates that the person meets the criteria provided

for in Paragraph 7.5 of the Regulation as well as detailed identification data for the person mentioned in the request.

7-2. Upon listing the person in the Domestic List on the basis of a request from a foreign competent authority, the State Security Service informs the relevant authorities of the jurisdiction whose citizenship the natural person holds and (or) where the natural person resides, or holds permanent residence, or in case of a legal person, where it is registered and operates. In such case, the State Security Service shall present to the requested jurisdiction the grounds which demonstrate that the person mentioned in the information meets the criteria provided for in Paragraph 7.5 of the Regulations as well as detailed identification data for that person.

8. For listing the natural or legal persons in the Domestic List, their identification data provided for in Paragraph 14.4 of this Regulation shall be submitted to the State Security Service by the state authorities specified in Paragraph 6 of this Regulation.

9. Once grounds specified in Paragraph 7 of this Regulation are eliminated, as well as if the criminal case is terminated, the decision to involve the person as the accused is abolished, acquittal has been issued, the court decision (sentence) is abolished, imprisonment was served or lifted, natural or legal persons should be delisted without delay from the Domestic List by the State Security Service on its own initiative, or on the basis of the request by the state authorities defined in Paragraph 6 of this Regulation, or application by natural or legal persons listed in the Domestic List.

10. Domestic List, amendments to the Domestic List, and identification data provided for in Paragraph 14.4 of this Regulation shall be sent without delay by the State Security Service to the Financial Monitoring Service.

11. The State Security Service is required to take all possible measures to inform in writing within one day the newly listed natural or legal persons on the Domestic List of the grounds for their listing and measures to be imposed on them, as well as the de-listing procedure for the Domestic List.

III. The procedure for International List

12. The Ministry of Foreign Affairs of the Republic of Azerbaijan (hereinafter – Ministry of Foreign Affairs) shall determine the International List on the basis of the lists issued by the 1267 and 1988 Sanctions Committees (hereinafter – Sanctions Committees) established on the basis of the United Nations Security Council Resolution 1267 dated 15 October 1999 and other successor resolutions on counter terrorism and submit it without delay to the Financial Monitoring Service for confirmation.

13. The Ministry of Foreign Affairs shall regularly review and update the lists issued by those Sanctions Committees, and if there are any amendments, shall make relevant amendments to the International List and submit it without delay to the Financial Monitoring Service for confirmation. The Financial Monitoring Service shall confirm the list without delay and post on its official website.

IV. Submitting listing requests to Sanctions Committees

14. Should grounds specified in Paragraph 15 of this Regulation be in place for inclusion of the natural or legal persons into *the lists issued by the Sanctions Committees*, the *State Security Service* shall submit the following data and documentation to the Ministry of Foreign Affairs for presenting the data and documents to the Sanctions Committees:

14.1. data and documentation substantiating the inclusion of the natural or legal persons to the *list*;

14.2. information and evidence (data obtained from investigative, operational and search activity, mass media, etc.) confirming the natural or legal persons' connection with a terrorist organisation, or with any person designated in the *lists issued by the Sanctions Committees*;

14.3. necessary data to be disclosed in the summary of the *Sanctions Committees* justifying the designation of the natural or legal persons in the *relevant list*;

14.4. following identification data for persons:

14.4.1. for natural persons – family name/surname, given names, aliases, date of birth, place of birth, nationality/citizenship, gender, employment/occupation, residence and current location, earlier addresses, passport or travel document and national identification number, date of issue, date of expiry, e-mail addresses;

14.4.2. for legal persons – name, address, headquarters, subsidiaries, affiliates, nature of business or activity, management, founder(s), *tax or other identification numbers, e-mail addresses and earlier names or identification data*.

15. The grounds for referral of the name of the natural or legal persons to *the Sanctions Committees* for the inclusion to the *their lists* include:

15.1. participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of ;

15.2. supplying, selling or transferring arms and related materiel to;

15.3. recruiting for; gathering funds or other property for or otherwise supporting acts or activities of.

a terrorist organization, or any cell, affiliate, splinter group or derivative thereof.

16. A standard form for the submission of listing requests for the *lists issued by Sanctions Committees* and explanatory notes for the standard form for listing can be found in the *Sanctions Committees'* websites. The relevant information shall also be posted on the websites of the *Financial Monitoring Service* and Ministry of Foreign Affairs.

17. The Ministry of Foreign Affairs is required to take all possible measures to inform in writing within one day the natural or legal persons newly designated on the basis of the reference of the Republic of Azerbaijan on the grounds of their inclusion in the *lists issued by Sanctions Committees and International List* and measures to be imposed on them, as well as the de-listing procedure from *those lists*.

V. The de-listing procedure of natural or legal persons from the lists issued by Sanctions Committees

18. The natural or legal persons included to the *lists issued by Sanctions Committees* may submit a petition for de-listing from *those lists* to the *Sanctions Committees* either directly or through the Ministry of Foreign Affairs. A standard form for the de-listing requests *from the*

lists issued by Sanctions Committees and relevant contact information can be found at the *Sanctions Committees* websites.

The relevant information shall also be posted on the websites of the *Financial Monitoring Service* and Ministry of Foreign Affairs.

19. The petitioner shall provide justification for the request for de-listing from *the list issued by Sanctions Committee*, submit relevant information that demonstrate non-compliance with the grounds under Paragraph 15 of this Regulation and request assistance for de-listing.

20. If the petition for de-listing from the *list issued by the Sanctions Committee* is filed through the Ministry of Foreign Affairs, the Ministry of Foreign Affairs shall forward the documents received to the *State Security Service* and *Financial Monitoring Service* for providing legal opinion. The Ministry of Foreign Affairs may also send a request to the jurisdiction that initiated the person's inclusion to the *list issued by the Sanctions Committee*, or the jurisdiction of the person's citizenship or permanent residence to obtain additional information and hold consultations for de-listing from General List.

21. A petition for de-listing from the *list issued by the Sanctions Committee* is reviewed by the Ministry of Foreign Affairs within two months, and during that period the submitted documents shall be sent to the Sanctions Committee supplemented with the final legal opinion agreed upon with the *State Security Service* and *Financial Monitoring Service*.

22. A petition for de-listing from the *list issued by the Sanctions Committee* of the deceased person shall be made, in case of a citizen of the Republic of Azerbaijan, by the Ministry of Foreign Affairs or directly to the Sanctions Committee by the person's legal heirs. In this case, the documents confirming the death of the person and information on his/her legal heirs, legal representatives, parents or trustees shall be attached to the petition.

23. The Ministry of Foreign Affairs is required to take all possible measures to notify in writing without delay the petitioner who applied for de-listing from *the list issued by the Sanctions Committee* about the decision of the Sanctions Committee.

24. The natural or legal person de-listed from the *list issued by the Sanctions Committees* shall be de-listed without delay from the International List by the Ministry of Foreign Affairs.

~~25. Legal outcomes caused by designation and de-listing of natural or legal persons are resolved in accordance with the legislation of the Republic of Azerbaijan and the international treaties it is a party to. Natural or legal persons may apply to the court in accordance with the legislation of the Republic of Azerbaijan for protection of their rights.~~

VI. Sanctions applied in respect of the natural or legal persons designated in the General List and relevant duties of the state authorities

26. *It is forbidden within the territory of the Republic of Azerbaijan for any natural or legal person and state authorities to make any assets available for ownership, use or possession by designated persons or to facilitate that such persons directly or indirectly benefit from the assets in any form. Upon posting of the General List on the official website of the Financial Monitoring Service, financial institutions and DNFBPs shall take measures to freeze without delay the assets of the designated persons without any notice and shall immediately notify the Financial Monitoring Service.*

27. *The measures to freeze assets of the persons specified in Paragraph 26 of the Regulation shall cover any assets directly or indirectly in possession, ownership or use, or owned as well as commonly*

owned (jointly or shared), managed or controlled by such persons as well as other assets obtained through such assets.

28. The *Financial Monitoring Service* shall take necessary measures to establish the database on natural or legal persons designated in the General List and the funds or other property in their possession. The *Financial Monitoring Service* shall take necessary measures, within its powers, to suspend without delay transactions with funds or other property on the basis of the foreign competent state authority in accordance with the legislation of the Republic of Azerbaijan and the international instruments it acceded to.

29. *To lift the measures applied in respect of the person whose assets were mistakenly frozen for matched identification data, the appeal shall be addressed to the Financial Monitoring Service, the documents confirming the identification data shall be presented.. Upon receipt of such appeal, the Financial Monitoring Service shall check within one working day the identification data for the person and if it is revealed that assets were frozen by mistake, shall without delay take the decision to unfreeze the assets and send the decision to the entity that implemented the freeze decision.*

30. *De-listing of the natural or legal persons from Domestic, International Lists and the lists issued by Sanctions Committees abolishes legal consequences derived from their listing in accordance with the legislation of the Republic of Azerbaijan and international instruments which the Republic of Azerbaijan is a party to. Natural or legal persons may appeal to the court for the protection of their rights in accordance with the legislation of the Republic of Azerbaijan.*

Note. *Amendments to the Regulation may be made in accordance with Paragraph 2.6-1 of the Statute on drafting and adopting normative legal acts of the executive authorities approved by Decree 772 dated 24 August 2002 of the President of the Republic of Azerbaijan.*