



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 on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party

ORDINANCE № 124

Baku, 25 June 2010

In order to provide the implementation of paragraph 1.3 of the Decree on 17 March 2010, # 241 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:**

«The Regulation on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party» shall be approved (attached).

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

**Approved by the Ordinance of the
Cabinet of Ministers of the Republic of Azerbaijan
dated 25 June 2010, # 124**

REGULATION

on approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party

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 on 17 March 2010, # 241, 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»; Decree on 11 May 2002, # 920, of the President of the Republic of Azerbaijan «On Action Plan to provide implementation of the UN Security Council Resolutions on 12 September 2001, #1368, on 28 September 2001, #1373, on 12 November 2001, #1377 and UN Security Council successor Resolutions targeted to counter terrorism.

2. This Regulation establishes the procedure of approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party (hereinafter – General List), amendments to the General List, as well as identify duties of state authorities of the Republic of Azerbaijan.

3. General List shall consist of the Domestic List of natural or legal persons designated on the basis of the legislation of the Republic of Azerbaijan and international instruments to which the Republic of Azerbaijan is a party (hereinafter – Domestic List), and International List (hereinafter – International List) determined according to the Consolidated List of natural or legal persons designated by the United Nations Security Council Committee established pursuant to UNSCR S/RES/1267 on 15 October 1999 (hereinafter – Sanctions

Committee) in accordance with the UNSCR S/RES/1267 on 15 October 1999, and in the context of the UNSCR S/RES/1373 on 28 September 2001 (hereinafter – Consolidated List).

4. General List shall be confirmed by the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan (hereinafter – Financial Monitoring Service), published in the official newspaper, placed on the web-site of the Financial Monitoring Service, and according 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 DNFBP either directly or through relevant supervision authorities.

5. This Regulation are intended to be preventive in nature, and in accordance with the presumption of innocence targets taking the following preventive measures:

5.1. freeze without delay the funds and other financial assets of the designated persons derived from property owned or controlled directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets are made available, directly or indirectly for such persons' benefit, or by their nationals or by persons within their territory;

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 of determination of Domestic List

6. Domestic List shall be determined by the Ministry of National Security of the Republic of Azerbaijan (hereinafter – Ministry of National Security) either directly or under the reference of the General Prosecutor Office of the Republic of Azerbaijan, Ministry of Internal Affairs of the Republic of Azerbaijan, Ministry of Justice of the Republic of Azerbaijan and State Border 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 the articles 102, 214, 214-1, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan;

7.4. 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.

8. For listing the natural or legal persons in the Domestic List, their identifying information envisaged in paragraph 14.4 of this Regulation shall be submitted to the Ministry of National Security by the state authorities defined in paragraph 6 of this Regulation.

9. Whether grounds specified in paragraph 7 of this Regulation were eliminated, i.e. the criminal case is terminated, the decision with regard to involving the person as the accused person is abolished, the acquittal verdict is issued, court decision (sentence) is annulled, imprisonment is served or removed, natural or legal persons should be delisted without delay from the Domestic List by the Ministry of National Security based on its own initiative, or through 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 identifying information envisaged in paragraph 14.4 of this Regulation shall be sent without delay to the Financial Monitoring Service by the Ministry of National Security.

11. The Ministry of National Security is required to take all possible measures to inform in writing within 1 day the newly listed natural or legal persons on the Domestic List of grounds for their listing and measures imposed on them, as well as on the possibility of a review and the de-listing procedure from the Domestic List.

III. The procedure of determination of International List

12. International List shall be determined by the Ministry of Foreign Affairs of the Republic of Azerbaijan (hereinafter – Ministry of Foreign Affairs) on the basis of Consolidated List designated by the Sanctions Committee, and submitted without delay to the Financial Monitoring Service for confirmation.

13. The Ministry of Foreign Affairs shall regularly review and update the International List and if there are any amendments to International List make the appropriate amendments to the International List and submit without delay to the Financial Monitoring Service for confirmation.

IV. The listing procedure of natural or legal persons into the Consolidated List

14. Whether grounds specified in paragraph 15 of this Regulation exist for listing of the natural or legal persons into Consolidated List, the Ministry of National Security shall submit the following data and documents to the Ministry of Foreign Affairs for presentation of these data and documents to the Sanctions Committee:

14.1. data and documentation justifying the inclusion of the natural or legal persons to the Consolidated List;

14.2. specific findings demonstrating the relationship of the natural or legal persons with Al-Qaida, Taliban or other terrorist organisation, or with any person from the Consolidated List (intelligence, law enforcement, judicial, media, court decisions, etc);

14.3. necessary data to be disclosed in the summary of the Sanctions Committee justifying the annexation of the natural or legal persons to the Consolidated List;

14.4. sufficient identifying information to allow for the positive identification of the natural or legal persons, including:

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

14.4.2. for legal persons – name, acronyms, address, headquarters, subsidiaries, affiliates, fronts, nature of business or activity, leadership, tax or other identification number and other names by which it is known or was formerly known, and website addresses.

15. The grounds for reference of the name of the natural or legal persons to the Sanctions Committee for the inclusion to the Consolidated List 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; or otherwise supporting acts or activities of;

Al-Qaida, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof.

16. A standard form for the submission of listing requests to the Consolidated List and explanatory notes for the standard form for listing can be found in the listing section of the Sanctions Committee's website <<www.un.org/sc/committees/1267/docs/worddocs/sfl_ind_adv.doc>> as well as <<www.un.org/sc/committees/1267/pdf/sfl_explan_notes.pdf>>. The relevant information shall be placed on the websites of the Financial Monitoring Service and Ministry of Foreign Affairs as well.

17. Under the reference of the Republic of Azerbaijan, the Ministry of Foreign Affairs is required to take all possible measures to inform in writing within 1 day the newly listed natural or legal persons on the Consolidated List and International List of grounds for their listing and the measures imposed on them, as well as on the possibility of a review and the de-listing procedure from the Consolidated List and International List.

V. The de-listing procedure of natural or legal persons from the Consolidated List

18. The natural or legal persons included to the Consolidated List may submit a petition for de-listing from the Consolidated List to the Sanctions Committee either directly or through the Ministry of Foreign Affairs. A standard form for the submission of de-listing from the Consolidated List requests can be found in the de-listing section of the Sanctions Committee's website <<www.un.org/sc/committees/1267/delisting.shtml>>. The relevant information shall be placed on the websites of the Financial Monitoring Service and Ministry of Foreign Affairs as well.

19. In the de-listing from the Consolidated List submission, the petitioner needs to provide justification for the de-listing request, offer relevant information demonstrating non-compliance with the criteria under paragraph 15 of this Regulation and request support for the de-listing.

20. In case of submission a petition for de-listing from the Consolidated List through the Ministry of Foreign Affairs, the Ministry of Foreign Affairs forwards simultaneously the delivered documents to the Ministry of National Security and Financial Monitoring Service for issuance of legal opinion. The Ministry of Foreign Affairs is also required to take measures to obtain additional information and conduct consultations for de-listing with the jurisdiction that initiated the person's inclusion to the Consolidated List, or with the jurisdiction of the person's citizenship or permanent residence if appropriate.

21. A petition for de-listing from the Consolidated List is reviewed by the Ministry of Foreign Affairs within 2 months, and during that period the submitted documents shall be sent to the Sanctions Committee in conjunction with the final legal opinion on petition for de-listing endorsed with the Ministry of National Security and Financial Monitoring Service.

22. A petition for de-listing from the Consolidated List of the deceased persons shall be made through direct application to the Sanctions Committee either by the Ministry of Foreign Affairs or the person's legal heir in cases concerning the citizen of the Republic of Azerbaijan. In this case, the documents confirming the death of the person and information on his/her legal heirs, parents or trustee are attached to the petition.

23. The Ministry of Foreign Affairs is required to take all possible measures to notify or inform in writing without delay the petitioner on the decision of the Sanctions Committee.

24. The natural or legal persons de-listed from the Consolidated List shall be de-listed without delay from the International List by the Ministry of Foreign Affairs.

25. The funds and other financial assets of the de-listed from the Consolidated List and International List natural or legal persons shall be unfrozen, as well as sanctions shall be removed from these persons in the order stipulated in the legislation of the Republic of Azerbaijan and international instruments to which the Republic of Azerbaijan is a party. Persons whose funds or other financial assets have been frozen, as well as *bona fide third parties* can challenge that measure with a view to having it reviewed in court in the order stipulated in the legislation of the Republic of Azerbaijan.

V. Sanctions imposed on the natural or legal persons on the General List and duties of government authorities

26. Pursuant to the Law of the Republic of Azerbaijan «On prevention of legalisation of criminally obtained funds or other property and the financing of terrorism», financial institutions and DNFBP are obliged to freeze without delay terrorist funds or other assets of natural or legal persons on the General List, and without prior notification to the persons involved immediately make STR to the Financial Monitoring Service about it.

27. The freezing actions referred to in paragraph 26 of this Regulation should extend to funds or other financial assets wholly or jointly owned or controlled, directly or indirectly, by natural or legal persons, terrorists, those who finance terrorism or terrorist organisations; and funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons, terrorists, those who finance terrorism or terrorist organisations.

28. The Financial Monitoring Service is required to take appropriate measures to establish computerised data base on the terrorist funds or other assets of the natural or legal persons listed on the General List, and on the natural or legal persons listed on the General List. According to national legal principles and international instruments to which the Republic of Azerbaijan is a party, the Financial Monitoring Service within the framework of its competence, is required to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions as well as to ensure the prompt determination, whether reasonable grounds or a reasonable basis exists to initiate a freezing action and the subsequent freezing of funds or other assets without delay.