



Security Council

Distr.: General
10 June 2002
English
Original: English/French

Letter dated 7 June 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached addendum to the report from Monaco submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(Signed) **Jeremy Greenstock**
Chairman
Counter-Terrorism Committee

Annex

Note verbale dated 21 May 2002 from the Permanent Representative of Monaco to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Representative of the Principality of Monaco to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) of 28 September 2001 concerning counter-terrorism and has the honour to transmit herewith an addendum to the report of the Principality of Monaco submitted pursuant to paragraph 6 of the above-mentioned resolution, detailing, inter alia, recent Sovereign Ordinances adopted in application of the International Convention for the Suppression of the Financing of Terrorism (see enclosure).

Enclosure

Principality of Monaco

**Addendum to the report submitted to the Security Council
Committee established pursuant to resolution 1373 (2001)
concerning counter-terrorism**

The Security Council,

...

Acting under Chapter VII of the Charter of the United Nations,

...

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and *calls upon* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution.

N.B.: This report has been prepared in accordance with the guidance for submission of reports contained in note No. SCA/20/01(6) of the Counter-Terrorism Committee.

I Additional information concerning paragraph 1, subparagraphs (a) to (d) of Security Council resolution 1373 (2001)

Following the entry into force of the International Convention for the Suppression of the Financing of Terrorism, on 10 April 2002, the Monegasque authorities published in the *Journal de Monaco* (Official Gazette) of 12 April 2002 the Sovereign Ordinances for the application at the domestic level of the provisions of this international instrument, as well as the implementation of the special recommendations of the Financial Action Task Force on Money Laundering (FATF) and of the relevant resolutions of the Security Council.

(i) Sovereign Ordinance No. 15,320, of 8 April 2002, on the suppression of the financing of terrorism, adopted in implementation of article 2 of the above-mentioned Convention, defines the offences and criminal penalties relating to acts of financing of terrorism. An act of financing of terrorism consists of an action of providing, collecting or managing funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in order to carry out one of the acts defined as a crime in the various individual conventions relating to the suppression of terrorism which are annexed to the International Convention for the Suppression of the Financing of Terrorism (concerning international civil aviation and maritime navigation, nuclear material, terrorist bombings and the taking of hostages), or any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population or to coerce a Government.

This instrument provides for penalties of rigorous imprisonment for 5 to 10 years for anyone found guilty of one or more acts of financing of terrorism. Complicity or attempted crime are punishable by the same penalties. Monegasque legal entities (with the exception of the State, the commune and public establishments) are criminally liable for acts of financing of terrorism and, in the event that their criminal liability is established, are punishable by fines of from 18,000 to 90,000 euros. Furthermore, their administrative authorization to operate in the Principality may be withdrawn from them by ministerial decree.

A full transcript of this Sovereign Ordinance is annexed to the present report.*

(ii) Sovereign Ordinance No. 15,321, of 8 April 2002, concerning the procedures for the freezing of funds for the purposes of combating terrorism, adopted in implementation of article 8 of the International Convention for the Suppression of the Financing of Terrorism and Security Council resolution 1373 (2001), establishes the modalities for the application of procedures for the freezing of funds. This text includes, in particular:

- A definition of the concept of freezing, which consists of preventing any movement, modification, use or manipulation of such funds;
- The obligation for credit bodies, financial institutions, insurance enterprises and any body, entity or person to freeze funds belonging to physical or legal persons, entities or bodies listed by ministerial decree or held by them;

* The annex is on file with the Secretariat and is available for consultation.

- The establishment of additional prohibitions, such as making frozen funds available to the persons listed in the ministerial decree, providing services to such persons, and carrying out or participating in operations to bypass freezing procedures;
- Criminal penalties applicable in the case of failure to comply with the above-mentioned obligations (from 18,000 to 90,000 euros).

A ministerial decree (No. 2002-222 of 9 April 2002) for the implementation of this Sovereign Ordinance identifies the physical or legal persons, entities or bodies whose funds must be frozen. This list includes the persons and entities appearing on the lists drawn up by the Security Council Committee established pursuant to resolution 1267 (1999) in implementation of resolutions 1267 (1999) and 1333 (2000), an updated version of which was issued on 15 March 2002, and the lists produced under the regulations of the Council of the European Union. Future lists drawn up by ministerial decree will be amended or supplemented on the basis of decisions taken by these international bodies.

A full transcript of this Sovereign Ordinance is annexed to the present report.*

II-1 Additional information concerning paragraph 2 (e)

Sovereign Ordinance No. 15,088, of 30 October 2001, on the implementation of the International Convention for the Suppression of Terrorist Bombings, provides for penalties of rigorous imprisonment for 10 to 20 years for anyone found guilty, in the territory of the Principality, or on board a ship flying the Monegasque flag or an aircraft registered in Monaco, of one or more of the terrorist acts envisaged in the Convention, without prejudice to heavier penalties if these acts constitute other crimes. In particular, where such acts result in the death of one or more persons or the destruction of public or private property, the penalty is rigorous imprisonment for life. Complicity in, or an attempt to commit, a terrorist act, or even mere participation in such an act, are punishable by the same penalties, whether such acts take place in Monaco or even abroad, if they are committed by a Monegasque national or against Monegasque interests.

Sovereign Ordinance No. 15,320, of 8 April 2002, on the suppression of the financing of terrorism, adopted in implementation of the International Convention for the Suppression of the Financing of Terrorism, provides for penalties of rigorous imprisonment for 5 to 10 years for anyone found guilty of one or more acts of financing of terrorism. Complicity or attempted crime are punishable by the same penalties. Monegasque legal entities (with the exception of the State, the commune and public establishments) are criminally liable for acts of financing of terrorism and, in the event that their criminal liability is established, are punishable by fines of from 18,000 to 90,000 euros. Furthermore, their administrative authorization to operate in the Principality may be withdrawn from them by ministerial decree.

II-2 Additional information concerning paragraph 2 (g)

Further to the information concerning border control measures, it should be noted that, under the Convention between France and Monaco of 18 May 1963, the stay of foreign nationals in Monaco is subject to the prior agreement of the French authorities. Consequently, as in France, an application for residence in the

Principality of a person appearing on the list drawn up in implementation of resolutions 1267 (1999) and 1333 (2000) would be denied.

The Principality of Monaco has specific measures to prevent the arrival and establishment in its territory of undesirable persons:

- In implementation of the Convention between France and Monaco of 18 May 1963, as amended, the Principality of Monaco applies the provisions relating to entry into the Schengen area when exercising controls on its borders. Thus, persons whose names appear in the Schengen Information System (SIS) for purposes of non-admission may not enter the Monegasque territory.
- In implementation of the above-mentioned bilateral Convention, the issuance of a residence permit to an alien requires prior consultation with the French authorities. If these authorities object to the establishment of an alien in Monaco, no residence permit would be issued to the person concerned.

III-1 Additional information concerning paragraph 3 (d)

The Principality of Monaco is a party to 11 of the 12 United Nations treaties for the suppression of international terrorism.

Initially, it acceded to all the treaties of which the International Civil Aviation Organization (ICAO) is the depositary:

The Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963. This instrument entered into force in relation to Monaco on 31 August 1983;

The Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970. This instrument entered into force in relation to Monaco on 3 July 1983;

The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971. This instrument entered into force in relation to Monaco on 3 July 1983;

The 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, adopted on 24 February 1988. This instrument entered into force in relation to Monaco on 21 January 1994;

The Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted at Montreal on 1 March 1991. This instrument entered into force in relation to Monaco on 13 July 1998.

Monaco also became a party on 8 September 1996 to the International Atomic Energy Agency (IAEA) Convention on the Physical Protection of Nuclear Material, done at Vienna on 3 March 1980.

Even before the terrorist attacks of 11 September 2001, the Principality had started its process of accession to the International Convention for the Suppression of Terrorist Bombings (adopted on 15 December 1997) and the International Convention against the Taking of Hostages (done at New York on 14 December

1979). These two instruments entered into force for Monaco on 6 October 2001 and 15 November 2001 respectively.

On 10 November 2001, the Principality signed and ratified the International Convention for the Suppression of the Financing of Terrorism (done at New York on 9 December 1999) which entered into force on 10 April 2002.

Lastly, on 25 April 2002, the two instruments of which the International Maritime Organization (IMO) is the depositary entered into force in relation to Monaco:

The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988;

The Protocol on the Suppression of Unlawful Acts Against the Safety of Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.

Furthermore, the Government of the Principality has undertaken a review of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, done at New York on 14 December 1973, with a view to acceding to this international instrument in the near future.

A summary table annexed to this report describes the situation of the Principality of Monaco as of the date of submission of this report in relation to all the United Nations treaties for the suppression of international terrorism.

Lastly, it should be noted, insofar as international terrorism is closely linked with organized crime, that Monaco is also the first State Member of the United Nations to have ratified, on 5 June 2001, the United Nations Convention against Transnational Organized Crime, and its two additional Protocols, including the Protocol against the Smuggling of Migrants by Land, Air and Sea, all three of which were adopted at New York on 15 November 2000.

Moreover, Monaco is currently studying the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, done at New York on 31 May 2001, with a view to signing it in the near future.

III-2 Additional information concerning paragraph 3 (e)

Under articles 14 and 68¹ of the Constitution of 17 December 1962, as amended on 2 April 2002, any international treaty which does not affect the constitutional order, does not entail the amendment of existing legislative provisions and does not create budgetary obligations in respect of expenditure whose nature or destination is not envisaged in the Budget Act, is incorporated into Monegasque domestic law by means of a sovereign ordinance, which make the treaty enforceable in Monaco within the domestic legal system.

The conventions and protocols relating to terrorism to which the Principality is a party have therefore been made enforceable by means of sovereign ordinances, as indicated in the annexed table.

¹ Article 68: "The Prince shall issue the necessary ordinances for the implementation of laws and the application of international treaties and agreements".

Moreover, in order to increase the effectiveness of the implementation of the conventions and protocols relating to terrorism to which the Principality is a party, an additional legal and regulatory mechanism has been established. Indeed, these treaties increasingly require that the State party should undertake to introduce certain legal, and particularly penal, or technical measures not specified in the text, or should take measures in addition to those envisaged in them.

The Principality therefore issued Sovereign Ordinance No. 15,088 of 30 October 2001 concerning the implementation of the International Convention for the Suppression of Terrorist Bombings, Sovereign Ordinance No. 15,320 of 8 April 2002 on the suppression of the financing of terrorism, adopted in implementation of article 2 of the International Convention for the Suppression of the Financing of Terrorism, and Sovereign Ordinance No. 15,321 of 8 April 2002 concerning the procedures for the freezing of funds for the purposes of combating terrorism, adopted in implementation of article 8 of the International Convention for the Suppression of the Financing of Terrorism and Security Council resolution 1373 (2001). These instruments, which are specifically designed to suppress acts of terrorism or of financing of terrorism, have been described above.

III-3 Additional information concerning paragraph 3 (g)

It should also be noted that article 11 of Sovereign Ordinance No. 15,320 of 8 April 2002 on the suppression of the financing of terrorism, adopted in implementation of article 2 of the International Convention for the Suppression of the Financing of Terrorism, provides that “For the purposes of extradition or judicial cooperation as envisaged in the Convention, none of the offences specified in article 2, paragraph 1 and article 5 are regarded as political offences, related to political offences or inspired by political motives”.
