

**Security Council**

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Letter dated 8 August 2005 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to the Chairman's letter of 3 May 2005 (S/2005/296). The Counter-Terrorism Committee has received the attached fourth report from the former Yugoslav Republic of Macedonia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(Signed) **Ronaldo Mota Sardenberg**
Acting Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism



Annex

Note verbale dated 27 July 2005 from the Permanent Mission of the former Yugoslav Republic of Macedonia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Macedonia to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to transmit the fourth report of the Republic of Macedonia on the implementation of Security Council resolution 1373 (2001) (see enclosure).

Enclosure**Fourth report of the Republic of Macedonia to the Counter-Terrorism Committee submitted pursuant to Security Council resolution 1373 (2001)**

On questions and comments raised in the letter from the Chairman of the Counter-Terrorism Committee, point 1., on "Implementation measures", in particular

- On "Legislative measures aimed at implementing the Resolution":

1.1 As outlined in the second supplementary report to the Counter-Terrorism Committee (CTC), on March 19, 2004 the Assembly of the Republic of Macedonia adopted the Law Amending the Penal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No. 37/96, 80/99, 4/02 and 19/04). The amendments, inter alia, reflect the efforts of the Republic of Macedonia to improve legal framework for effective fight against terrorism on the national level by introducing new crimes, redefining the existing crimes, as well as imposing stricter penal policy for a number of crimes, including for the crime of "terrorism" (Article 313). In this context, the following new crimes have been introduced: "terrorist organization" (Article 394-a); "crime against humanity" (Article 403-a); "approval or justification of a genocide, crimes against humanity or war crimes" (Article 407-a); "misuse of chemical or biological weapons" (Article 407-b). Also, in line with the Palermo Convention requirements, a separate crime of "money laundering and other proceeds of crime" has been introduced (Article 273).

In addition, the Assembly of the Republic of Macedonia on December 26, 2003 adopted the Amendment XIX to the Constitution of the Republic of Macedonia with regard to Article 17 of the Constitution ("Official Gazette of the Republic of Macedonia" No. 84/2003) thus establishing constitutional prerequisite for lawful exemptions from the generally guaranteed freedom of communication and right to privacy. Further, the amended Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia" No. 74/2004), introduced, inter alia, special investigative measures aimed at disclosing and collecting data and evidence from private correspondence provided that this is considered necessary for prevention or detection of criminal acts, or when the security and defense interests are threatened, for the purpose of conducting investigation, on the basis of a court decision or a decision of an investigative judge, the measures including: communication interception; inspection and search of computer systems; secret observation; surveillance and audio-visual recording of persons and objects with technical devices; simulated purchase of objects, simulated receiving and giving a bribe; controlled delivery and transport of persons and objects; use of undercover agent for monitoring and collection of information; opening simulated bank accounts; registration of false legal entities or use of the existing ones for data collection, and other special measures.

1.2. With regard to the Draft Law against Terrorism, the Ministry of Interior tasked with preparation of the text of the law has conducted comprehensive analysis and in consultation with the other relevant governmental authorities has come to the conclusion that, at present, there is no need to adopt a special law on terrorism since

the matter is adequately addressed within the latest amendments to the existing laws and regulations.

1.3. The new Law on the Prevention of Money Laundering and Other Proceeds from Crime was adopted in 2004 by the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" No. 46/04). For more details on its provisions, please see answers to 1.6. ,1.7, 1.8. and 1.9.

-On "Measures aimed at combating the financing of terrorism":

1.4. The Assembly of the Republic of Macedonia on April 6, 2004 ratified the International Convention for the Suppression of the Financing of Terrorism whereby its provisions became an integral part of the domestic legislation and thus its obligations to implement sub-paragraph 1 (b) of the SC resolution 1373 (2001) have been met.

1.5. See answer under 1.8.

1.6. According to the new Law on the Prevention of Money Laundering and Other Proceeds of Crime which entered into force on 20 July 2004, the following entities have a duty to undertake measures and activities to prevent and unveil acts of money laundering or of transactions suspected of being linked with terrorism:

1. Financial institutions and responsible managers in the financial institutions ("financial institution" meaning a legal or a natural person that carries out one or more activities related to collections of deposits; approval of credit lines; issuance of credit/debit cards; exchange of currencies; economic/financial consulting; financial lease; factoring; insurance affairs; money ordering related activities; money or value depositing related activities; or other financial activities determined by law).

2. Legal and natural persons registered to undertake the following activities:

- real estate market activities;
- auditing/accounting/financial consulting
- notaries/legal assistance services related to: sales of real estate/companies; money or money order management; opening/servicing of money accounts, safety deposit boxes and other accounts; establishment or management of legal entities; representing clients in financial transactions and real estate market activities;
- sale of artifacts, antiquities and other related objects of more significant value;
- issuance of credit/debit cards;
- manufacturing and sales in precious metals and jewels;
- travel/tourist agencies; and
- other activities for gaining property or other usage or management with money or property;

3. Associations for organizing gaming, betting and lottery activities (casinos etc.);

4. Associations of citizens and foundations; and

5. Foreign representative offices, affiliations or parts of the entities registered abroad which carry out activities in the Republic of Macedonia, as well as

representative offices, affiliations or parts of the entities registered in the Republic of Macedonia which carry out activities abroad.

The new Law on the Prevention of Money Laundering and Other Proceeds from Crime sets out that "When there is a basis for suspicion that a transaction is connected with terrorist activity of the client or participant in a transaction; or when money or assets which are object of transaction are meant for financing terrorism, besides proving the identity of the client, the entity has a duty, if possible, to seek information on the course of transaction, its goal, final destination of the money and on all participants in the transaction". The aforementioned entity in these cases has a duty to report immediately to the Directorate for the Prevention of Money Laundering, and to submit within 24 hours after establishing that the transaction is suspicious a written report to the Directorate containing all relevant data related to that transaction, identity of client(s) and of other persons involved in the transaction.

The Directorate, on its part, in case it finds the transaction suspicious of being connected with terrorist activity of the client(s) or participants(s) or if the money or other assets of transaction are suspicious of being meant to financing terrorism, (regardless of whether the funds-money or assets are legal in origin or not) has a duty within 24 hours of gaining information on the transaction to submit request to the Public Prosecutor to decide upon undertaking provisional measures aimed at halting the transaction and provisional seizure (freeze) of the money or assets. Within 24 hours, the Directorate submits to the company an order to provisionally put on hold the transaction informing it at the same time of the submitted request to the Public Prosecutor. The provisional hold ordered by the Directorate can last until the Public Prosecutor decide upon the motion, but no more than 72 hours from halting the transaction.

Also, see answers under 1.7. and 1.8.

1.7. The new Law on Performing Services for Swift Money Transfers was adopted by the Assembly of the Republic of Macedonia in 2003 ("Official Gazette of the Republic of Macedonia" No. 77/03) regulating the issue of legal entities and conditions for providing such services. According to the Law, the providers of such services can be companies registered and licensed by the Governor of the Central Bank of the Republic of Macedonia to provide services for swift money transfers in accordance with the law.

In accordance with the Law on the Prevention of Money Laundering and Other Proceeds from Crime, companies licensed to provide services for swift money transfers have a duty to undertake measures and activities to identify and prevent suspicious activities aimed at money laundering or financing of terrorism, inter alia, to establish identity of the clients before the transaction takes place in case the transfer exceeds the amount of 2.500 Euro and to keep written files of the data in chronological order. These companies have a legal duty to report to the State Directorate for the Prevention of Money Laundering any transaction (transfer) suspicious of having been connected in whatsoever manner with terrorist activity of the client(s) or participant(s) in the transaction(s), or if the money or proceeds of transaction(s) are meant for financing terrorism. The Directorate, on its part, in case it finds the transaction suspicious to be connected with terrorist activity of the client(s) or participants(s) or if the money or other assets of transaction are suspicious of being meant for financing terrorism, has a duty within 24 hours of gaining information on the transaction to submit motion to the Public Prosecutor for undertaking provisional measures aimed at halting the transaction and provisional seizure of the money or

assets. Within 24 hours, the Directorate submits to the company an order to provisionally put on hold the transaction informing it at the same time of the submitted motion to the Public Prosecutor. The provisional hold can last until the Public Prosecutor decide upon the motion but no more than 72 hours from halting the transaction.

1.8. Further to the answer under 1.7. it is to be noted that the Law on the Prevention of Money Laundering and Other Proceeds from Crime, the provisions of which are in line with the FATF nine special recommendations on the prevention of financing of terrorism, is the core regulation also for the prevention of diversion of funds and other economic resources of charitable, religious and cultural associations for terrorist purposes. According to the Law, Internal Revenue Service (IRS) oversees the application of the measures and activities to detect and prevent acts of money laundering and/or financing of terrorism by the civil society associations and foundations, including charitable, religious and cultural associations. The State Directorate for the Prevention of Money Laundering, on the basis of its own findings, has the right to submit a request to the IRS to inspect the work of a certain civil society association and foundation, including charitable, religious and cultural association, and the IRS has a duty to inspect and report back to the Directorate on the results of its inspection.

The setting-up and activities of non-profit organization (associations of citizens and foundations including charitable, religious and cultural associations) in the Republic of Macedonia are regulated by the Law on Associations of Citizens and Foundations of 1998 and the Law on Accounting of Non-profit Organizations of 2003. According to the Law on Associations of Citizens and Foundations, these associations and foundations are legal persons and must be registered and listed in the Court's special Register. The founding act of the association of citizens and foundations, besides the name, headquarters, address, information of the founders and members of governing organs, contains also information on the aim of the association/foundation, as well as on money/assets pledged for the purpose of founding of association/foundation of each of the founders, and of their origin. According the Law on Accounting of Non-profit Organizations, they must, inter alia, maintain accounting books and submit detailed financial reports with accurate descriptions (income/expenses) of money/assets at disposal and of their sources, and of their obligations. These financial reports are to be submitted annually to the IRS and to the Central Register.

1.9. In the period from 1 March 2004 to 1 March 2005, the State Directorate for the Prevention of Money Laundering received a total of 36.022 reports, out of which:

- 35.461 reports from the banks for cash transactions the amount of which exceeded 15.000 or 20.000 EURO (different regular reporting forms);
- 2 reports from savings houses;
- 40 reports from notaries public;
- 489 reports from Customs Administration cash flow through the border line of the Republic of Macedonia which exceeded 10.000 EURO; and
- 30 reports for suspicious transactions out of which: 14 from banks; 1 from notary public; and 15 from relevant state organs and institutions (see Chart):

SUBMITTED REPORTS TO THE DIRECTORATE

	Regular reports	Suspicious reports	Total
Banks	35.461	14	35.475
Savings houses	2	0	2
Broking houses	0	0	0
Financial Market	0	0	0
Insurance Companies	0	0	0
Exchange offices	0	0	0
Notaries public	40	1	41
Law offices	0	0	0
Customs service	489	1	490
Competent state authorities	0	14	14

Pursuant to Article 28 of the Law on the Prevention of Money Laundering and Other Proceeds from Crime, the Directorate, in the said period, found suspicion for crime and submitted criminal charges before the relevant state authorities (Ministry of Interior-Financial police; Public Prosecutor) in five (5) individual cases.

- On "Effectiveness of international cooperation in criminal matters":

1.10. The amended Criminal Procedure Law ("The Official Gazette of the Republic of Macedonia" No. 15/97, 44/02, 74/04 and 15/05) in its Chapter "Procedure for providing international legal assistance and execution of international treaties in criminal cases" (Articles 502-508), introduces new legal provisions aimed at broadening the scope and simplifying procedure for providing legal assistance and enabling direct cooperation and exchange of information between the law enforcement authorities of the Republic of Macedonia with relevant authorities of foreign States, in line with the EU legislation and international standards.

The new solutions contained in Article 505-a of the Criminal Procedure Law enable efficient international cooperation. In case where a request from foreign authority responsible for determination of provisional measures of Article 203 of Criminal Procedure Law is in place, or when execution of the measure of confiscation requested, the domestic courts shall act in accordance with the provisions of the international treaties the Republic of Macedonia is a party to. In that connection, the confiscated property and property gained or seized objects can be returned to a foreign country based on a court decision under the conditions set out in international treaties Macedonia is a party to. Based on such an international treaty, the domestic courts could request determination of provisional measures of Article 203 of the Criminal Procedure Law and execution of confiscation of the property and property gains and seizure of objects from foreign state authorities. In cases when the international treaty stipulates that the confiscated property and property gain should be divided between the Republic of Macedonia and other state, the proposal is to be submitted to the foreign state authorities by the Ministry of Justice.

In addition, the Chapter "Procedure for issuing wanted circular and announcement", in Article 537 stipulates that in cases where data are needed about property or property gains for which there is founded suspicion that they are illegally obtained, issuing of announcement shall be ordered, and data or notification shall be requested from the authority in charge of conducting proceedings. Wanted circular

and announcement shall be issued by the Ministry of Interior or by the Public Prosecutor (during pre-criminal phase of the procedure) or by the Court (during criminal procedure). In particular, the Ministry of Interior may issue international wanted circular for a case where the person against whom the circular is issued abroad, and on the basis of previously obtained statement by the relevant authority that has issued the order for announcement of the wanted circular, indicating that in case of finding the person, his/her extradition shall be ordered. If it is probable that the property gain or objects are abroad, international announcement shall be issued containing the statement that in case of their finding, provisional measures shall be determined for freezing and confiscating of the property, property gains or seizure of objects. On the request of a foreign authority, the competent national authorities shall issue wanted circular and announcement for a person, property, property gain or objects suspected of being located on the territory of the Republic of Macedonia, provided that the request contains a statement that in case the suspect is apprehended, an extradition or provisional measures of freezing or confiscation of the property gain or objects shall be requested (Articles 535-539 of the Criminal Procedure Law)

It is also to be noted that after its last reporting to CTC, the Republic of Macedonia has ratified the following Council of Europe instruments related to fight against international terrorism:

- European Convention for the Suppression of Terrorism ("Official Gazette of the Republic of Macedonia" No. 49/04);
- European Convention on the Transfer of Proceedings in Criminal Matters ("Official Gazette of the Republic of Macedonia" No. 49/04); and
- Convention on Cyber-Crime ("Official Gazette of the Republic of Macedonia" No. 41/04);

On questions and comments raised in point 2 of the letter "Assistance and guidance":

Further to the letter from the Chairman of the CTC dated 21 March 2005 to the Permanent Representative of the Republic of Macedonia to the United Nations in New York, the following priority areas have been identified for technical assistance to the Republic of Macedonia in implementing provisions of the resolution 1373 (2001):

- fully implementing the International Convention for the Suppression of the Financing of Terrorism of 1999;
- introducing measures aimed at freezing funds intended to finance acts of terrorism, particularly for funds of legal origin;
- regulation of alternative money transfer systems; and
- regulation of charitable organizations.

the relevant governmental authorities of the Republic of Macedonia have agreed to the indicated priority areas for technical assistance.