

**Security Council**

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Letter dated 20 March 2003 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

I write with reference to my letter of 2 January 2003 (S/2003/19). The Counter-Terrorism Committee has received the attached third report from Belarus 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) **Jeremy Greenstock**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

Annex

Letter dated 20 March 2003 from the Chargé d'affaires a.i. of Belarus to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I should like to transmit to you herewith the second supplementary report to the Counter-Terrorism Committee submitted in response to the letter of 16 December 2002 (see enclosure). The Government of the Republic of Belarus stands ready to provide the Committee with additional reports or information that may be requested by the Committee.

Enclosure

[Original: Russian]

Second supplementary report from the Republic of Belarus on the implementation of United Nations Security Council resolution 1373 (2001)

Paragraph 1.2. *Effective implementation of paragraph 1 requires that, in accordance with the International Convention, there are provisions in place specifically criminalizing the wilful provision or collection, by any means, directly or indirectly, of funds by the nationals of Belarus or in its territory with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. For an act to constitute an offence as described above it is not necessary that the funds were actually used to carry out a terrorist offence (article 2, paragraph 3, of the Convention). The acts sought to be criminalized are thus capable of being committed even if:*

- *any related terrorist act takes place or is intended to take place outside the country; or*
- *no related terrorist act has actually occurred or is attempted.*

The CTC notes that, at the time of submission of the supplementary report, the process of ratification by Belarus of the International Convention for the Suppression of the Financing of Terrorism was in progress and that that report indicates that it is the practice of Belarus to enact national legislation to fully discharge the obligations arising out of the treaties to which it is party. Accordingly, is it the intention of Belarus to include provisions of the kind mentioned above in its Criminal Code?

The Republic of Belarus is currently conducting the domestic procedures for ratification of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999.

In accordance with the third part of article 15 of the Act “On international treaties of the Republic of Belarus”, the legal norms contained in international treaties of the Republic of Belarus which have entered into force are part of the legislation in force in the territory of Belarus and can be directly applied, except in cases where it follows from the international treaty that a domestic enactment is required for the application of such norms.

Consequently, after the International Convention for the Suppression of the Financing of Terrorism enters into force for the Republic of Belarus, its basic provisions will become part of the legislation in force in the territory of the Republic of Belarus and will be applied directly, without duplication in domestic legislative acts.

With regard to the CTC questions concerning criminalization of actions connected with the wilful provision or collection of funds by the nationals of Belarus or in its territory for the commission of terrorist acts in Belarus or abroad, in accordance with article 16 of the Criminal Code of the Republic of Belarus such actions are considered to constitute participation in the crimes referred to in articles 124 (Terrorist acts against representatives of foreign States), 125 (Attacks on

institutions enjoying international protection), 126 (International terrorism) and 289 (Terrorism).

As part of the implementation of the domestic procedures for ratification of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999, the Republic of Belarus is considering whether it will be necessary to amend or add to its criminal legislation in order to bring it into line with the provisions of that international instrument.

Paragraph 1.3. *In the context of the requirements of paragraph 1, please explain whether there are any legal or other administrative measures that ensure that funds and other economic resources collected by non-profit organizations (e.g. religious, charitable or cultural organizations) are not diverted for other than the stated purposes, particularly for financing of terrorism. As this requires an appropriate monitoring mechanism, what arrangements does Belarus have in place, or propose, to ensure this?*

The necessary normative and legal basis has been created in the Republic of Belarus to prevent the financing of international terrorism and freeze accounts relating to terrorist organizations. However, no special normative legal acts have been adopted in the Republic of Belarus to deal with charitable, religious and cultural organizations that may be engaged in fund-raising for terrorist activities. Persons involved in the collection of such funds will be prosecuted under the existing legislation of the Republic of Belarus.

Law enforcement agencies in the Republic of Belarus have not documented any specific cases of fund-raising by non-profit organizations in the territory of Belarus for the financing of terrorist activities.

The following legislative acts deal with the monitoring of financial operations in Belarus:

- Act of 19 July 2000 “On measures to prevent the legalization of funds obtained by illegal means”. The Act governs the procedure for monitoring financial operations subject to special oversight, including the international transfer of funds from areas where the relevant State agencies have reported illicit production of narcotic drugs or psychotropic substances or a concentration of significant funds belonging to or destined for persons regarding whom there are sufficient grounds for suspecting that they are involved in the illicit production or distribution of weapons and/or in international crime.
- Act of 26 June 1997 “On measures to combat organized crime and corruption”.
- Banking Code.
- Criminal Code.
- Code of Criminal Procedure.

The attachment and forfeiture of funds or other property held in a bank and belonging to natural and juridical persons may occur following:

- A court decision or ruling (based on the Criminal Code of the Republic of Belarus);
- A decree issued by a body of inquiry or pre-trial investigation in cases covered by the Code of Criminal Procedure of the Republic of Belarus;

- A decision of the tax authorities in cases covered by Belarusian legislation.

In order to implement the resolution of the United Nations Security Council, the Board of Directors of the National Bank of the Republic of Belarus adopted Decision No. 10 of 28 January 2002 “On the suspension of credit and debit transactions in respect of accounts belonging to terrorists, terrorist organizations and persons connected with them”.

Paragraph 1.4. *Please explain whether Belarus has a central agency or unit to deal specifically with receiving and analysing suspicious transaction reports from financial and other institutions in order to disseminate relevant information to the competent authorities. If not, does Belarus intend to establish such agency or unit?*

The Ministry of Taxation and Internal Revenue is responsible for receiving and analysing reports of unusual or suspicious financial transactions and transmitting information to the relevant competent organs of Belarus.

Paragraph 1.5. *The CTC would appreciate receiving a progress report on the entry into force of the draft law on international cooperation in legal assistance in criminal proceedings relating to terrorist acts.*

The draft law on international legal assistance in criminal matters was introduced on 6 August 2002 by the President of the Republic of Belarus in the House of Representatives of the National Assembly of the Republic of Belarus. Consideration of this draft law in the House of Representatives is scheduled for the first half of 2003.

Paragraph 1.6. *For effective implementation of subparagraphs 2 (d) and (e) of the resolution, a State needs to criminalize the use of its territory for the purpose of committing terrorist acts against other States or their citizens or for the purpose of financing, planning and facilitating of terrorist acts against other States or their citizens, even though no related terrorist acts have actually been committed or attempted. Please comment on what action Belarus intends to take in this regard.*

The Criminal Code of the Republic of Belarus applies to all the cases mentioned in the CTC question.

The specific content of the articles of the Criminal Code criminalizing actions connected with terrorism against other States or their nationals was described in paragraphs 2 (d) and 2 (e) of the supplementary report of the Republic of Belarus on the implementation of Security Council resolution 1373 (2001) submitted to CTC on 20 June 2002.

See paragraph 1.2 of that supplementary report concerning the question of criminalization of the financing of terrorism.

Paragraph 1.7. *Please provide the CTC with a progress report on the completion by Belarus of all formalities relating to becoming a party to the remaining three international instruments relating to terrorism to which it is not yet a party, including the enactment of implementing legislation. Please provide an outline of the relevant laws and other necessary arrangements made to implement those international instruments.*

On 21 June 2002, the Republic of Belarus ratified the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 10

March 1988 and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf of 10 March 1988.

Implementation of the provisions of these international instruments does not require the adoption of new normative acts or the repeal of existing ones, or the introduction of amendments and additions thereto.

In accordance with the third part of article 15 of the Act "On international treaties of the Republic of Belarus", after these international treaties enter into force for the Republic of Belarus, the legal rules contained therein will become part of the legislation in force in the territory of the Republic of Belarus and may be applied directly.

See paragraph 1.2 concerning the question of the fulfilment of the domestic procedures for ratification of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999.

Paragraph 1.8. *Could Belarus please confirm that, as required by subparagraph 3 (g) of the resolution, it does not consider terrorist acts to be political offences for which extradition can be refused.*

The Republic of Belarus confirms that it does not consider terrorist acts to be political offences for which extradition can be refused.

Paragraph 2. *Assistance and guidance*

The Republic of Belarus confirms its interest in receiving technical assistance as soon as possible in the area of border questions for the purpose of implementing resolution 1373 (2001) and strengthening national counter-terrorism capacities, as stated in its request made in CTC in January 2001.

The Republic of Belarus also expresses an interest in receiving through CTC assistance in the professional training and technical equipment of the divisions of the State Security Committee of the Republic of Belarus participating in the organization and conduct of counter-terrorist operations.
