



Security Council

Distr.: General
3 June 2004

Original: English

Letter dated 1 June 2004 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 fourth report from Monaco 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) Alexander V. **Konuzin**
Chairman

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

Annex

[Original: French]

Note verbale dated 20 May 2004 from the Permanent Mission of Monaco to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Principality of Monaco to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, and has the honour to transmit herewith the fourth report of the Government of Monaco (see enclosure).

Enclosure***Fourth report submitted by the Principality of Monaco to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)***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 the present 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 the present resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement the present resolution.

N.B.: This report has been prepared in accordance with the guidance for submission of reports contained in document S/AC.40/2004/MS/OC.378 of the Counter-Terrorism Committee.

Principality of Monaco (30 April 2004)

1. Implementation measures**Effectiveness in the protection of the financial system**

1.1 Is the Financial Network Information Service (SICCFIN) adequately structured, empowered and staffed (financially and technically) to perform fully its mandated functions? Please provide data in support of your response to the above question, in particular regarding the authority of SICCFIN to obtain information on the activities of the financial sector?

With respect to *powers*, the authority conferred upon SICCFIN is established pursuant to Act No. 1,162, as amended:¹

– Articles 17 and 30 grant investigative powers to SICCFIN:

SICCFIN agents may request the transmission of all documentation relating to the identity of clients and to their transactions, where such request is linked to a transaction that was the subject of the declaration provided for under article 3 or the special investigation provided for under article 13 (complex transaction with no economic justification).

Agents may invoke these powers of investigation and communication with regard to professionals governed by Act No. 1,162, as amended.

* Annexes are on file with the Secretariat.

¹ See Annexes I and I bis of the supplementary report of the Principality of Monaco submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (S/2002/1418 of 26 December 2002).

– Articles 26 and 29 give SICCFIN powers pertaining to monitoring the enforcement of the Act cited above. Sovereign Ordinance No. 11,246,² as amended, specifies the modalities: SICCFIN conducts on-site monitoring of documents without being hampered by professional secrecy requirements, in particular for purposes of:

- Receiving all documents and any materials that it deems useful such as contracts, books, accounting documents, registers of minutes, and audit and oversight reports;
- Collecting information required in the exercise of its mandate from third parties that have worked for and/or provided oversight services to, financial institutions;
- Assuring the implementation of the procedures set out in article 5 of Sovereign Ordinance No. 11,160 of 24 January 1994, as amended, in particular with respect to information and training;
- Hearing the testimony of directors or representatives of financial institutions and any persons liable to provide information concerning cases brought before it.

After receiving information from the directors or representatives of financial institutions, SICCFIN may inform them of appropriate measures to be adopted within a specified time limit.

Any obstruction of SICCFIN investigations carries a penalty of one to six months' imprisonment and the fine provided for under article 26 (2) of the Penal Code or only one of these two penalties.

With respect to *staffing and financing*, SICCFIN is currently staffed by eight agents, two of whom are responsible for oversight of domestic measures to combat money-laundering and terrorism financing.³ The number of staff should be increased to 12 within the coming months, through the recruitment of financial analysts and legal specialists. SICCFIN has a budgetary allocation of €620,000 for 2004 (excluding funds for running costs provided by the Department of Finance and the Economy), which enables it fully to accomplish its tasks. Additional information can be found in the attached SICCFIN work reports for 2002 and 2003 (annex 1).

1.2 Effective implementation of paragraph 1 (a) of the resolution requires financial institutions and other intermediaries to identify their clients and to report suspicious transactions to the relevant authorities. In this regard would Monaco please provide the CTC with the number of suspicious transactions reports (STRs) received by SICCFIN, the number of STRs analysed and disseminated, as well as the number of STRs which have led to investigations, prosecutions or convictions.

SICCFIN analyses all STRs transmitted to it. Pursuant to article 27 of Act No. 1,162, as amended, when agents note facts that may relate to drug trafficking or organized criminal activities, or terrorism, terrorist acts or terrorist organizations, or their financing, the information received is transmitted to the judicial authorities. Figures are available in the statistical table provided in annex 2.

² Ibid., annex. 4.

³ It is worth noting that the Principality of Monaco is a micro-State of 32,000 inhabitants, situated on an area of 2 km². It has a total of 44 banking establishments and four financial companies.

1.3 In the context of the effective implementation of paragraph 1 of the resolution, has Monaco adopted measures to prevent terrorists and other criminals from having access to its financial sector, in particular its offshore sector and international business companies (IBCs). Does Monaco maintain or intend to create a central registry of the existing IBCs?

Measures in effect in the Principality bar terrorists and other criminals from gaining access to the Monegasque financial sector. Accordingly, anyone investing in a financial company registered in the Principality, including management companies and offshore companies, must make himself known to the Monegasque authorities for purposes of approval. The authorities then verify his identity and, as appropriate, conduct background checks.

It should be noted that Act No. 1,253 of 12 July 2002, which amended Act No. 1,162, broadened the obligation to declare transactions suspected of being linked to terrorism, terrorist acts, or terrorist organizations or their financing.

In addition, it should be specified that there are no “ICBs” in the Principality and that, strictly speaking, the Principality has no offshore sector. In fact, legislative and regulatory texts oblige any company registered in the Principality to establish in its territory personnel and facilities related to the company’s stated activity.

The Department for Economic Expansion (*Direction de l’Expansion Economique*) established pursuant to Sovereign Ordinance No. 11,986 of 2 July 1996 is, in particular, responsible for the investigation and follow-up of applications to undertake economic activities pursuant to Act No. 1,444 of 26 July 1991 on the exercise of various economic and legal activities. The Department also maintains the Directory of Commerce and Industry,⁴ comprising all authorized banking establishments and financial companies in the Principality.

1.4 Monaco’s third report states (at page 3) that “the Bill currently being finalized by the legal services of the Principality will provide additional assurances that the funds received by associations are not diverted from their stated purposes to terrorist activities”. The CTC would appreciate receiving a progress report on the enactment of such legislation.

The Bill on Associations and Federations was registered by the Secretariat of the National Council (Monegasque parliament) on 22 February 2002 under No. 728. It is being reviewed by the relevant parliamentary committees and should be adopted at a forthcoming session.

1.5 Has Monaco provided its administrative, investigative, prosecutorial and judicial authorities with specific training aimed at enforcing its laws in relation to:

- *Typologies and trends to counter terrorist financing methods and techniques?*
- *Techniques for tracing property which represents the proceeds of crime or which is to be used to finance terrorism, with a view to ensuring that such assets are frozen, seized or confiscated?*

Every year officials from the Judicial Police Division undergo special “Money-Laundering” training at the National Training and Study Centre of the French

⁴ The service responsible for the Directory conducts the registration and deregistration of businesses and companies, non-trading companies, collateral based on business premises and capital assets, and the registration of protests and certificates of bankruptcy.

National Police (*Centre National d'Etudes et de Formation de la Police Nationale Française*). The training is of a general nature and includes a course on combating terrorism financing.

The Judicial Police Division also participates actively in all International Criminal Police Organization/Interpol (ICPO/INTERPOL) meetings on action, training and international cooperation with regard to terrorism.

With regard to combating organized crime, the Operational Liaison Unit of the Judicial Police Division also acts as liaison with the Anti-Mafia Coordination and Investigation Unit (UCRAM) of the French Ministry of the Interior.

International cooperation is also maintained through the intermediary of the Federal Bureau of Investigation (FBI), giving rise to a significant exchange of information even before the events of 11 September 2001.

SICCFIN agents also receive training adapted to the performance of their functions in accordance with Monegasque legislation (see question 1.1) by participating regularly in specialized seminars described in the SICCFIN work reports for 2002 and 2003 (see annex 1) and in ongoing training sessions held by peer organizations.

On the other hand, the examining magistrates from the office of the Prosecutor General have, to date, received no training specifically devoted to the terrorism financing. They have nevertheless been involved in the drafting of Monegasque legislation relating to combating terrorism financing, by participating in working groups set up for that purpose. It is worth noting that, to date, SICCFIN has brought nothing to the attention of the Prosecutor General that might relate to suspicious transactions linked to terrorism; nor has it had to open an investigation or institute proceedings on such charges. Only one case of "financing of a terrorist enterprise" was taken up in 2003, concerning international letters rogatory dealing with an investigation of Corsican nationalist circles.

Effectiveness of counter-terrorism machinery

1.6 Paragraph 2 of the resolution requires each Member State, inter alia, to have in place effective police, intelligence and/or other structures as well as adequate legal provisions to detect, monitor and apprehend those involved in terrorist activities and those supporting terrorist activities, with a view to ensuring that those persons are brought to justice. The CTC would be grateful for information concerning the use of special investigative techniques in the fight against terrorism.

To date, with the exception of the procedures established within the framework of Act No. 1,162, as amended, and Sovereign Ordinances No. 15,088 of 30 October 2001, No. 15,320 and No. 15,321 of 8 April 2002 and No. 15,655 of 7 February 2003, described in previous reports, there are no separate criminal procedures specific to terrorism that might give rise to derogation from ordinary law as is the case in other European legal systems.

In fact, the prevention plan known as Vigirenfort established in the Principality does not provide for temporary strengthening of police powers. Even in matters of terrorism, the Monegasque Constitution limits detention in police custody to 24 hours. Lastly, the situation of repentants and undercover agents is currently not regulated in the Principality of Monaco.

However, certain ordinary-law procedures, such as telephone-tapping authorized by a judge, can already be employed as special investigative measures to combat terrorism.

In addition, the Government of Monaco is currently negotiating a new agreement with the French Republic on mutual legal assistance in criminal matters, which will introduce several special investigation methods (controlled deliveries, joint investigation teams, discreet investigations). These new operating methods will in the near future be included in the new Code of Criminal Procedure that is being drafted.

Effectiveness of customs, immigration and border control

1.7 Effective implementation of paragraphs 1 and 2 of the resolution requires effective customs and border controls to prevent and suppress the financing of terrorist activities. Does Monaco impose controls on the cross-border movement of cash, negotiable instruments, precious stones and metals (for example, by imposing an obligation to make a declaration or to obtain prior authorization before any such movement is made)? Please provide information concerning relevant monetary or financial thresholds.

In accordance with the Franco-Monegasque customs convention of 18 May 1963, as amended, establishing Monegasque territory as a French customs territory, the cross-border movement of liquid assets, negotiable instruments and precious stones and metals is monitored by the French customs service, which applies the French Customs Code. French financial or monetary controls and thresholds are therefore applicable in this regard.

In addition to the controls enforced by the French customs service, it should be noted that pursuant to article 12 of Act No. 1,162, as amended, “*all information and documents relating to the purchase or sale of gold, silver or platinum, such as the type, number, weight and title of materials and works of gold, silver or platinum, as well as the names and addresses of persons releasing them and persons on whose behalf financial institutions have purchased them, must be entered into a register that is retained for five years*”.

2. Assistance and guidance

It is worth recalling at this point that, to date, the Principality of Monaco has never suffered a terrorist attack on its territory; nor has it identified any freezable funds linked to terrorism. Consequently the Government of Monaco has no experience comparable to that of major States that have encountered such phenomena.

Nevertheless, the various Monegasque services responsible for combating terrorism or its financing stand ready to provide, according to the means at their disposal, advice and assistance in this area to other countries as follows:

- The Budget and Treasury Department will communicate any useful information in the interest of cooperating on lists of persons and organizations linked to terrorism, gathered in Monaco in conformity with European regulations, and on assets that may have been frozen in Monegasque establishments pursuant to one of the Sovereign Ordinances on the freezing of funds generated by terrorist activities.

- As explained in more detail in the attached work reports, SICCFIN already has a cooperation programme receiving information from various international bodies such as the International Monetary Fund, the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures of the Council of Europe, the Financial Action Task Force on Money-Laundering (FATF) and the Egmont Group. It is empowered to exchange information with the competent foreign authorities with regard to activities that appear to be linked to drug trafficking or organized criminal activities, or terrorism, terrorist acts or terrorist organizations, or their financing, on condition of reciprocity and provided that no criminal proceedings are already under way in Monaco based on the same facts. Cooperation agreements have already been signed with 15 financial intelligence units.
 - The Judicial Police Division of the Public Security Department of Monaco exchanges information on a regular basis, as described in relation to question 1.5, through the intermediary of ICPO/INTERPOL and with the UCRAM of France, the FBI or any other anti-terrorist coordination group that might be interested in information in the Division's possession.
 - Lastly, the Monegasque Judicial Services Department provides assistance by executing all international letters rogatory sent to it by foreign judicial institutions, paying special attention to those that relate to combating terrorism and the financing thereof.
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