



Security Council

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Letter dated 5 February 2008 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 report from Montenegro 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) Mirjana **Mladineo**

Chairman

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



Annex

Note verbale dated 29 January 2008 from the Permanent Mission of Montenegro to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

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

Enclosure

First report of Montenegro on the national implementation of resolution 1373 (2001) on the suppression of terrorism

With reference to Security Council resolution 1373 (2001), operative paragraph 6, that calls upon Member States to report to the Committee of the Security Council on the steps that have been taken to implement the Resolution, Montenegro submits the following report.

The authorities in Montenegro are aware that tackling security threats in the modern world must be based on new grounds and require a systematic approach to security problems, along with seeking long-term solutions to the root causes of these phenomena. The interconnection between terrorism and crime is getting stronger and obvious by the day, thus making a comprehensive approach the only way to guarantee success. What underlies terrorism is a specific form of political violence and the worst forms of both national and international organized crime. Taking into account the manifest forms, structure and causes, Montenegro's strategic documents divide all activities in the fight against terrorism into defensive measures (prevention), repressive measures and combat activities - antiterrorism actions, and crisis management (elimination of consequences). Preventive actions are seen as the key element in the fight against terrorism and organized crime.

Montenegro is a small country, both regarding its area and population, yet has a very important geostrategic position. Although economically encumbered by being a country in transition, Montenegro is doing everything possible to contribute to overall security, both at the regional and global levels. Thus, Montenegro has been undergoing a process of democratic, economic, political and institutional reforms, as the prerequisites for achieving a desirable progress.

After Montenegro gained independence in May 2006, the Montenegrin authorities have adopted the following strategic documents: the Programme of Fight against Corruption and Organized Crime, Action Plan for the Implementation of the Programme of Fight against Corruption and Organized Crime, the Strategy for Integrated Border Management, and the Strategy of National Security of Montenegro. The latter is the document that defines the development and functioning of the system of national security of Montenegro, and it is an expression of its commitment to be a part of the regional and global security systems. The Strategy addresses national interests, security objectives, security risks and challenges, possible reactions of the State of Montenegro to those risks and challenges, as well as the structure of the national security system. The Strategy creates a political-legal basis for a thorough reform of the national security sector and legislative adaptation, as well as for a further development of the national security system. It also represents the basic document that defines the concept of security of Montenegro. The elements of the national security system include State authorities and institutions involved in planning, organizing, harmonizing and implementing measures and activities within the security system, these being the following: President of Montenegro, Parliament of Montenegro, Government of Montenegro, National Security Council, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Defence, Ministry of the Interior, National Security Agency, Judiciary and the State prosecutor, Customs Authority, Security forces and Homeland security.

The Montenegrin Strategy for the Fight against Corruption and Organized Crime was prepared in cooperation with the OSCE and the Council of Europe. New, modern Laws have been enacted: the Criminal Procedure Code, the Criminal Code and the State Prosecutor Law. These laws introduce special investigation techniques and methods to provide more efficient and better quality proving of severe criminal offences and the institution of the witness collaborator. A unit was formed within the State Prosecutor Office for fight against organized crime that is managed by the Special Prosecutor. Considering the presence of a foreign

element in organized crime, the Special Prosecutor has established successful cooperation with other prosecutors in the region, and a broader community. State Prosecutors of Montenegro are members of the Southeast European Prosecutors Advisory Group which defines concrete activities for each of the countries, and cooperation is at the highest level. State prosecutors of Montenegro have signed numerous bilateral agreements on cooperation that have already showed their full substance and effects. The passing of the Law on Witness Protection and the Law on Arms that envisage restrictive measures and severe punishments is also important.

As for international-legal instruments in the field of fight against terrorism and cooperation in the fight against crime, Montenegro has deposited its instrument of succession to the following conventions:

- **Conventions whose designated depository is the Secretary-General of the United Nations:**

1. United Nations Convention against Transnational Organized Crime;
2. International Convention for the Suppression of the Financing of Terrorism;
3. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;
4. International Convention for the Suppression of Terrorist Bombings;
5. International Convention Against the Taking of Hostages;
6. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
7. International Convention for the Suppression of Acts of Nuclear Terrorism, succession to the signature;

- **Conventions whose designated depository is the International Maritime Organisation:**

1. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA 1988);
2. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT 1988);

- **Conventions whose designated depositories are individual States:**

1. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970;
2. Protocol on 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, signed at Montreal on 24 February 1988,
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1970.¹

Montenegro has assumed obligations arising from agreements signed between the Federal Republic of Yugoslavia and the subsequent State Union of Serbia and Montenegro. Montenegro has assumed obligations from the following agreements:

¹ The depositories of these three international instruments are the United Kingdom of Great Britain and Northern Ireland, the Russian Federation and the United States of America. Montenegro deposited its instrument of succession with the Government of the United Kingdom, after which the Foreign Office informed the Montenegrin Ministry of Foreign Affairs that other members and depositories would be informed about the given legal transaction.

1. with the Republic of Greece, the agreement on cooperation in the fight against organized crime, illegal trafficking in drugs and psychotropic substances, terrorism, and other severe criminal activities;
2. with the Republic of Bulgaria, the agreement on cooperation in the suppression of illegal trafficking in narcotic drugs and psychotropic substances, international terrorism and other forms of international criminal activities;
3. with the Republic of Croatia, the agreement on cooperation in the suppression of illegal trafficking in narcotic drugs and psychotropic substances, international terrorism and other forms of international criminal activities;
4. with the Republic of Italy and the Republic of Albania, the Memorandum of Understanding that, inter alia, envisages cooperation in the fight against international terrorism; and
5. with the Republic of Austria, the agreement on police cooperation.

Montenegro has also accepted and implemented obligations arising from the Berlin Declaration as of 10 July 2002, and has implemented necessary activities related to red notices, blue notices and other official actions of INTERPOL with regard to persons for whom there is a reasonable doubt that they have incited, participated, or committed terrorist activities.

Sanctions against terrorism in Montenegro are contained in the Criminal Code that recognizes the following criminal acts: terrorism, international terrorism, hostage taking and terrorism financing, which has brought the Montenegrin criminal legislation in line with the European Convention on the Suppression of Terrorism and the United Nation Convention on the Suppression of the Financing of Terrorism. With a view to preventing suspicious financial transactions, Montenegro passed the Law on the Prevention of Money Laundering and the pertinent sublegal acts necessary for its implementation. In addition, the Administration for the Prevention of Money Laundering was established, and it represents the financial intelligence agency of an administrative type. This status was further detailed and formalized with the signing of the cooperation agreement with the Police Administration, the Customs Administration, the Tax Administration, the Central Bank of Montenegro, the Securities and Exchange Commission, and the basic courts. The requisite international cooperation was supported by cooperation agreements with financial intelligence agencies in the region that provide detailed accounts of the method of exchange of information between the financial intelligence in the region and further. The efforts and work of the Administration for the Prevention of Money Laundering have been internationally verified by full membership of the Egmont Group, the international association of financial intelligence units. Representatives of the Administration participate in the work of all Egmont working groups which, in addition to a simplified and safe exchange of information, contribute to sharing the latest achievements and practices in the organization of the fight against money laundering and terrorism financing. In its work, the Administration for the Prevention of Money Laundering is governed by standards set forth in EU Directives and Council of Europe and OSCE recommendations. With regard to the exchange of information, the Police Administration membership of the INTERPOL represents another key element for efficient and systematic fight against organized crime and accompanying effects.

The most pressing issues regarding the fight against terrorism and organized crime are the successful protection of borders, monitoring the flow of people and goods across land and sea borders, as well as the modernization of travel documents and computer and intelligence connecting with a view to exchanging information in this field. This gave rise to initiating the so-called "smart borders" concept that would enable a free and fast flow of people and goods, but simultaneously implying the strengthening of security measures by introducing biometric indicators on passports and visas that would be stored in the common regional computer system. This would create the conditions for the suppression of cross-border crime and terrorism. Aware of the importance of such practical solutions, the Montenegrin authorities have started with the creation

of the legal-technical solutions necessary for the use of identity documents prepared on the basis of the biometric technology. This project is expected to be finished by March 2008.

At the end of 2003, the Montenegrin police forces took over authority for Montenegro border security from the Army of Serbia and Montenegro. With continuous international assistance and support, Montenegro has been improving its capacities for the successful performance of this task, especially through cooperation with the relevant border authorities of all neighbouring countries. The ultimate objective is the establishment of a system of integrated border management. Thus, Montenegro attended the regional meeting of representatives of national authorities for the prohibition of chemical weapons that was held in Sarajevo in October 2007. The discussions held at the meeting involved the exchange of experiences in the field of the regime and control of the export and import of chemical substances and the possibilities for joint determination of border crossings which would be used for the transit of such substances.

In the operational sense, the Department for combating organized crime was formed within the Criminal police, and the Special antiterrorist unit within the Ministry of Internal Affairs is fully functioning. The Centre for fighting drugs and smuggling has also been established. As for participating in the international fight against organized crime, the Police Administration has signed numerous agreements and established cooperation with counterpart authorities, particularly those of neighbouring countries and the region. The Police Administration is an active participant in all international and regional projects and conferences aimed at strengthening police cooperation among countries of the region and Europe in the fight against all forms of crime. Important further steps have been taken in the reorganization of the National Security Agency in making it into a reference intelligence agency, the transformation of the former Military Security Service into the Department for defensive-security operations for communication and crypto-protection, and the formation of the Department for information-security and technical support of the Ministry of Foreign Affairs of Montenegro.

Montenegrin legislation solutions

Constitution of Montenegro

Article 55 Prohibition of activities

Activities of political, trade union and other organizations aimed at the violent overthrow of the constitutional order, violation of the territorial integrity of Montenegro, violation of guaranteed freedoms and rights or inciting and fomenting of national, racial, religious and other hatred or intolerance shall be prohibited. The establishment of secret (clandestine) organizations and paramilitary groups shall be prohibited.

Criminal Code of Montenegro

Article 365 Criminal act - Terrorism

“Anyone who, with the intention of endangering the constitutional order and security of Montenegro... causes explosion or fire or undertakes other dangerous measures or kidnaps a person, or commits another act of violence or threatens to undertake some dangerous action or to use nuclear, chemical, bacteriological or other dangerous substances and whereby may cause fear or feeling of insecurity of citizens shall be punished by imprisonment for a term of three to fifteen years.”

Article 373 Preparing acts against the constitutional order and security of Montenegro

“(1) Anyone who prepares the committing of criminal acts referred to in ... Article(s) 365...shall be punished by imprisonment for a term of one to five years.

(2) Anyone who directs or sends to the territory of Montenegro ... persons or arms, explosives, poisons, equipment, ammunition or other material with the intention of committing one or more of the criminal acts referred to in this Chapter, shall be punished by imprisonment for a term of two to ten years.

(3) Preparations referred to in Paragraph 1 of this Article include acquiring or rendering usable means for committing the criminal act, removing obstacles for committing the criminal act, making arrangements, planning or organizing with others committing the criminal act or of other activities for creating conditions for immediate execution of the criminal act."

Article 447 Criminal act - International terrorism

"(1) Anyone who, with the intention of causing harm to a foreign State or organization commits abduction over a person or other act of violence, causes explosion or fire or commits other generally dangerous acts or threats by use of nuclear, chemical, bacteriological or other similar means, shall be punished by imprisonment for a term of three to fifteen years.

(2) If an offence referred to in Paragraph 1 of this Article resulted in the death of one or more persons, the offender shall be punished by imprisonment for a term of five to fifteen years.

(3) If in the commission of a crime referred to in Paragraph 1 of this Article the offender has committed intentional manslaughter, the offender shall be liable to imprisonment for a minimum term of ten years or to imprisonment of thirty years."

Article 448 Criminal act - Taking hostages

"(1) Anyone who commits the abduction of a person or threatens to kill that person, or hurt or hold them hostage with the intention of forcing a State or international organization to do or not to do something, shall be punished by imprisonment for a term of two to ten years.

(2) The offender referred to in Paragraph 1 of this Article who frees the hostage of his own free will, although the purpose of the abduction has not been reached, can be liable to a reduced sentence.

(3) If an offence referred to in Paragraph 1 of this Article resulted in the death of the hostage, the offender shall be punished by imprisonment for a term of three to fifteen years.

(4) If during the commission of offences referred to in Paragraph 1 of this Article the offender committed intentional manslaughter of the hostage, the offender shall be liable to imprisonment for a minimum term of ten years or a prison sentence of thirty years."

Article 449 Criminal act - Financing of terrorism

"(1) Anyone who provides or raises funds intended for the financing of the criminal offences referred to in Articles 447 to 448 of the present Code shall be liable to imprisonment for a term of one to ten years.

(2) Funds referred to in Paragraph 1 of this Article shall be seized."

Criminal Procedure Code of Montenegro

Article 81- Seizure of objects under the Court order

(1) Objects which, according to the Criminal Code, have to be seized or which may be used as evidence in criminal proceedings, shall be temporarily seized and delivered for safekeeping to the Court, or their safekeeping shall be secured in some other way.

(2) Anyone who is in possession of such objects shall be bound to hand them over upon a Court order. A person who refuses to hand them over may be fined in an amount not exceeding € 200 and, in the case of further refusal, a person may be imprisoned. Imprisonment shall last until the person hands over the objects or until completion of the criminal proceedings, but not longer than two months. The same process will be

applied against a person acting in an official capacity or a responsible person in a State authority, enterprise or other legal entity.

(3) The provisions of Paragraphs 1 and 2 of this Article shall be applied to data saved in devices for automatic or electronic data processing and media wherein such data are saved, which must, upon a court order, be handed over in a legible and comprehensible form. The Court and other bodies shall abide by the regulations on maintaining confidentiality of certain data.

(4) Temporary seizure does not relate to the following:

- (1) documents and other papers of State authorities, publication of which would violate the obligation to keep professional, State and military secrets, until the competent body decides otherwise;
- (2) defendant's letters to his defence attorney or the persons referred to in Article 97, Paragraph 1, Items 1 to 3 of the present Code, unless the defendant decides to hand them over voluntarily;
- (3) recordings, extracts from the register and similar documents that are in the possession of persons referred to in Article 96, Item 3 of the present Code and that are made by such persons in relation to the facts obtained from the defendant while performing their professional service, if publication thereof would constitute violation of the obligation to keep a professional secret.

(5) The provision referred to in Paragraph 4, Item 2, of this Article shall not apply to the defence attorney or persons exempted from the duty to testify pursuant to Article 97, Paragraph 1 of the present Code if there is a reasonable doubt that they aided the defendant in committing the criminal offence or they helped him after the criminal offence was committed or if they acted as accomplices by virtue of concealment.

(6) The panel (Article 24, Paragraph 6) shall decide on an appeal against a ruling imposing a fine or imprisonment. The appeal against imprisonment shall not hold the enforcement of the sentence.

(7) The police authorities may seize the objects stated in Paragraph 1 of this Article when proceeding pursuant to the provisions of Article 230 and 246 of the present Code or when executing the judicial warrant.

(8) When seizing objects it shall be noted where they were found, and they shall be described and, if necessary, their characteristics shall be established in some other way. A receipt shall be issued for the seized objects.

Article 523 Temporary confiscation of objects and property gain

(1) If there are grounds for suspicion or a reasonable suspicion that a criminal offence of organized crime has been committed, the Court may order a measure of temporary confiscation of objects and property gain regardless of the conditions set forth in the provisions of Articles 81 to 87 and Articles 538 to 545 of the present Code.

(2) Unless otherwise prescribed by the provisions of this Chapter, in the proceedings of temporary confiscation of objects and property gain referred to in Article 1 of the present Code, the provisions of the Law on Executive Proceedings as well as relevant provisions of the present Code shall be applied accordingly.

Law on the prevention of money laundering and terrorism financing

This Law determines measures and actions that Montenegro undertakes with a view to detecting and preventing money laundering and terrorism financing.

Article 3 envisages

Measures for detecting and preventing money laundering and terrorism financing shall be implemented in all businesses and transactions of receiving, exchanging, keeping, using or other form of dealing with money or other property (hereinafter referred to as: transaction), and other transactions where required by this law and related subordinate regulations, as well as in any business transactions where the suspicion of money laundering and terrorism financing exists. The obligation to undertake these measures shall have: 1) banks and

financial institutions; 2) organizations performing payment transactions; 3) post offices; 4) investment funds, pension funds and other participants on the capital market; 5) stock exchanges and stock exchange intermediaries; 6) insurance companies; 7) humanitarian, non-governmental and other non-profit organizations; 8) gambling houses and other organizers of games of chance; 9) exchange offices; 10) pawnbroker offices; 11) business organizations, entrepreneurs and natural persons engaged in a trade or business of:

- sale and purchase of claims,
- factoring,
- managing the property of third persons,
- issuing and performing operations with debit and credit cards,
- leasing,
- travel organization,
- trade in real estate,
- safekeeping,
- trade in precious metals and precious stones and products made from these materials,
- issuing guarantees and other warranties,
- crediting and credit agencies,
- lending and brokering in the negotiation of loan deals,
- brokering in the sale of insurance policies,
- organization and execution of auctions,
- trading with works of art,
- sale of automobiles
- sale of boats and
- other activities in connection with similar transactions of using money or other property.

The drafting of the Law on the administration of temporarily and permanently seized property is under way, and this law shall be in line with Article 31 of the United Nations Convention against Corruption and the relevant documents of the Council of Europe and the European Union.