

The Rules And Procedures For Formation The Lists Of Persons Subject To Sanctions

Article 1. General provisions

1. The purpose of the present document is to establish a unified system for compiling lists of persons involved in terrorism/terrorist financing or financing the proliferation of mass destruction weapons by the Government Committee (hereinafter - the Committee), working on issues of implementation of the Resolutions of the United Nations Security Council.
2. This document defines by the Government Committee:
 - a) The rule and procedures for making a decision on the issue of entering a person into the list of sanctioned persons and/or removing a person from the list of sanctioned persons for the relevant UN Committee;
 - b) The rule and procedures for consideration of a petition by a competent body of Georgia or another state to include a person in the list of sanctioned persons and/or remove a person from the list of sanctioned persons in accordance with UN Security Council Resolution 1373 (2001).
3. Terms used in the present document have the meaning established by the Law of Georgia on "Facilitating the Suppression of Money Laundering and Terrorism Financing ", Article 2 and the "Statute of the Governmental Committee Working on the Implementation of United Nations Security Council Resolutions".

Article 2. Referral to the Sanctions Committee under UN 1267/1989, 1988 and subsequent Resolutions

1. In the event of existing specific and detailed circumstances, the working group acting in accordance with the Law of Georgia on "Facilitating the Suppression of Money Laundering and Terrorism Financing ", Article 40, paragraph 4, applies to the Governmental Committee with a substantiated petition to the relevant UN Sanctions Committee for the inclusion of a person in the list of persons subject to sanctions with a request of submission.
2. The Government Committee shall immediately, under a reasonable basis, review the information and evidences presented by the working group, determine whether the submitted petition meets the criteria established by the relevant Resolution of the United Nations Security Council for inclusion of a person in the list of sanctioned persons, and make one of the following decisions:
 - a) On assignment to submit additional information and/or evidences to the working group;
 - b) On meeting the petition of the working group and submitting an appeal to the relevant UN Sanctions Committee to include a person in the list of sanctioned persons;
 - c) On refusal to satisfy a petition of the working group.

3. In case of making a decision envisaged under the subparagraph "b" of paragraph 2 of this Article, immediately as soon as the decision is made, an appeal to the UN Sanctions Committee shall be made in the manner established by the relevant Resolution of the UN Security Council and by using the standard form of appeal.

4. The appeal submitted to the UN Sanctions Committee must include the information necessary to identify the person, the relevant circumstances of the case, as detailed as possible information related to the grounds for sanctioning the person.

5. In the event that the appropriate UN Committee approves the appeal envisaged under the paragraph 2, sub-paragraph b of this Article, the Government Committee, if possible, immediately informs the person included in the list of sanctioned persons about the mechanism operating in the United Nations Organization, which reviews the statements related to the removal of the relevant person from the list of sanctioned persons in the manner established by the Resolution of the UN Security Council.

Article 3. Creation of a local list of persons in contact with terrorism in accordance with Resolution 1373 (2001)

1. The Governmental Committee based on the application of the working group acting in accordance with Law of Georgia on "Facilitating the Suppression of Money Laundering and Terrorism Financing", Article 40, paragraph 4, based on the consideration of specific and detailed information and/or evidences presented by a competent body of Georgia or another state, with a reasonable standard, assesses whether the individual in the petition meets the criteria established for including the person stated in the list of sanctioned persons for the purposes of Resolution 1373 (2001).

2. Based on the goals of UN Security Council Resolution 1373 (2001), the local list of sanctioned persons may include:

a) Any person who commits or has attempted to commit a terrorist act, or any person who participates in the implementation of a terrorist act or facilitates the execution of such an act;

b) Any person who, directly or indirectly, is owned or controlled by the person specified in subparagraph "a" of paragraph 3 of this Article;

c) Any person who acts for the benefit of the person specified in subparagraph "a" of paragraph 3 of this Article or in accordance with his/her instructions.

3. The Government Committee shall immediately, based on the standard of reasonableness, in the presence of specific and detailed circumstances, review the information and evidences submitted by the competent body of Georgia or another state based on the petition of the working group, determine whether the submitted petition meets the criteria for listing a person in the local list of persons subject to sanctions for the purposes of UN Security Council Resolution 1373 (2001) and make one of the following decisions:

a) On requesting additional information and/or evidences from the initiating party (competent body of Georgia or another state);

b) On satisfying the petition of the initiating party (competent body of Georgia or another state) and spreading the seizure on the property of the person specified in the petition;

c) On denial to satisfy the petition of the initiating party (competent body of Georgia or another state);

4. In case of making a decision envisaged under the subparagraph "b" of paragraph 4 of this Article, the Government Committee will consider the issue of submitting a petition of the initiating party (competent body of Georgia or another state) to sanction the person included in the local list of sanctioned persons.

5. The decision made by the Governmental Committee in accordance with paragraph 4 of this Article shall enter into force upon signing the minutes of the meeting of the Governmental Committee.

6. In case of making a decision provided in subparagraph "b" of paragraph 3 of the present Article, the Government Committee shall, via appropriate means of communication, notify the relevant persons or authorities regarding any changes made to the local list of sanctioned persons within 2 working days.

7. In case of making a decision provided in subparagraph "b" of paragraph 4 of this Article, if possible, the Government Committee shall immediately notify the person included in the local list of sanctioned persons in compliance with the requirements stipulated by the legislation of Georgia:

a) The grounds for inclusion in the local list of sanctioned persons;

b) The information about the rights of a person included in the local list of sanctioned persons, including:

b. a.) The procedure for removing a person from the local list of sanctioned persons;

b. b.) The complete or removal of seizure from the property of the sanctioned persons in whole or in part.

Article 4. Grounds for including a person in the list of sanctioned persons

1. The basis for including a person into the list of sanctioned persons may be:

a) A guilty verdict against a physical entity, by virtue of which the said person was found guilty for committing one or more crimes envisaged by the Chapter XXXVIII of the "Criminal Code of Georgia";

b) A court's decision on liquidation of a legal entity or prohibition of activities based on involvement in terrorism/financing of terrorism or financing of proliferation of weapons of mass destruction;

c) A decision made by the international organizations to combat terrorism/financing of terrorism or the financing of proliferation of weapons of mass destruction regarding the inclusion of a person in the list of sanctioned persons;

d) A decision made by a entitled court in accordance with the legislation of another state on the issues provided in subparagraphs "a" and "b" of this Article;

e) A combination of information and evidences, on basis of which an objective observer would make a conclusion that the person was somehow involved in the committing one or more crimes envisaged by the Chapter XXXVIII of the "Criminal Code of Georgia".

2. A decision to include a person in the local list of sanctioned persons, to provide information on this to the relevant UN committee and to seize the property of the sanctioned person does not depend only on the existence of criminal proceedings against this person.

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Article 5. Removal of a person from the list of sanctioned persons

1. Based on the appeal of the working group, with appropriate periodicity, but not less than once a year, the Government Committee verifies whether there is a necessary reasonable basis to make a decision envisaged by the Article 2, paragraph 2, subparagraph "a" or/ and Article 3, paragraph 3, subparagraph "a" of this document and makes one of the following decisions:

a) To submit an appeal to the relevant UN Sanctions Committee on the issue of removal of a person from the list of persons subject to sanctions;

b) On removal of a person from the local list of persons subject to sanctions and the release of his property from seizure;

c) On leaving a person in the list of persons subject to sanctions.

2. The Government Committee reviews the application of the interested party to remove a person from the list of sanctioned persons within one month from submission of the application and makes one of the following decisions:

a) On submission of an appeal to the relevant UN Sanctions Committee regarding the satisfaction of the application of the interested party and the removal of the person from the list of sanctioned persons;

b) On the satisfaction of the application of the interested party, the removal of the person from the local list of sanctioned persons and the release of his/her property from seizure;

c) On refusal to satisfy the application of the interested party.

3. When making a decision envisaged by the subparagraph "b" of paragraph 1 of this Article and subparagraph "b" of paragraph 2, the Government Committee shall immediately notify the competent authority of another state, if there is a circumstance specified by in paragraph 4 of Article 3.

4. Submission of an appeal to remove a person from the list of sanctioned persons should be made to the relevant UN Sanctions Committee in accordance with the procedure established by the relevant resolution of the UN Security Council and using the standard form of appeal.