

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry for Foreign Affairs, Finland

Act on the Freezing of Funds with a View to Combating Terrorism

(325/2013; amendments up to 606/2017 included)

By decision of Parliament, the following is enacted:

Section 1

Purpose and scope of application

This Act lays down provisions on the freezing of funds for the purpose of implementing the obligations imposed on the Member States of the United Nations in Resolution 1373 (2001) adopted by the United Nations Security Council on 28 September 2001.

This Act does not apply to the funds of those natural or legal persons whose funds are to be frozen under Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.

This Act does not apply to any funds while they have been confiscated for security or otherwise by virtue of the Coercive Measures Act (806/2011) or on the basis of a request for international legal assistance.

(1162/2013)

Section 2

Definition

For the purposes of this Act, freezing of funds means measures to prevent any move, transfer, alteration or use of or dealing with funds in any way that would result in any change in their amount, location, ownership, possession, character or destination, and measures to prevent any other change that would enable the funds to be used.

Section 3

Freezing of funds

Funds belonging to the following shall be frozen in accordance with this Act:

- 1) a natural or legal person who is referred to in Article 1 of Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and is not covered by Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism;
- 2) a natural or legal person who is reasonably suspected of, charged with or convicted of an act criminalised in chapter 34a of the Criminal Code (39/1889);
- 3) a natural or legal person if a competent authority of another State has made an individualised and reasoned request for freezing the funds of this person and if authorities of that State have, on the basis of credible evidence, initiated a criminal investigation concerning the person or demanded convicting the person of an act which, if committed in Finland, would obviously have the essential elements of an offence under chapter 34a of the Criminal Code, or if a court of law in that State has convicted the person of an act referred to above;
- 4) a legal person if a natural person or legal person referred to in paragraphs 1–3 owns at least 50 percent of it alone or together with other natural or legal persons of this kind;
- 5) a legal person in which a natural or legal person referred to in paragraphs 1–3 exercises the control referred to in chapter 1, section 5 of the Accounting Act (1336/1997) alone or together with other natural or legal persons of this kind; or
- 6) a partnership if a natural or legal person referred to in paragraphs 1–3 is responsible for its obligations in full, as for their own debt.

A police officer with the power of arrest or a prosecutor shall report any suspicion or conviction under subsection 1, paragraph 2 to the Financial Intelligence Unit referred to in section 2 of the Act on the Financial Intelligence Unit (445/2017) and operating in connection with the National Bureau of Investigation. (456/2017)

Section 4

Decision to freeze funds

Any decision to freeze funds shall be made by the National Bureau of Investigation.

The decision shall be published in the Official Gazette and communicated without delay to the subject of the measure.

The decision is considered communicated to third parties at the latest on the day when it is published in the Official Gazette.

Section 5

Content of decisions to freeze funds

The freezing of funds applies to all funds of the subject of the decision. However, the freezing of funds does not apply to funds needed for

- 1) covering foodstuff, housing and health care expenses or corresponding necessary expenses of a natural person subject to the decision or of his or her dependants;
- 2) paying taxes, charges comparable to a tax, charges imposed by authorities or compulsory insurance premiums or expenses for managing the funds;
- 3) paying damages or fulfilling an obligation which arose before the decision to freeze the funds, provided that the funds of the recipient of the payment have not been frozen.

In the decision to freeze funds, it may be ordered which part of the funds shall not be frozen, if this is necessary for covering expenses referred to in subsection 1, for preventing the destruction of the funds, for maintaining their value, or for another important reason. On the same grounds, the decision to freeze funds may be amended or supplemented with conditions.

Section 6

Prohibition to transfer or alter funds

Frozen funds shall not be moved, transferred, altered, used or dealt with in any way that would result in any change in their amount, location, ownership, possession, character or destination.

Section 7

Prohibition to assign funds

No one shall, directly or indirectly, assign funds to a natural or legal person whose funds have been frozen by virtue of this Act, unless the assignment, with the contribution of an authority, a credit institution or a financial institution, is arranged so that the funds to be assigned are frozen.

The prohibition under subsection 1 does not apply to funds intended only for the personal use or consumption of the natural person subject to the decision to freeze funds or of his or her family.

Section 8

Handling of reports on the freezing of funds and listing of decisions to freeze funds

The Act on Detecting and Preventing Money Laundering and Terrorist Financing lays down provisions on the reporting on the freezing of funds under section 3, paragraph 2 and on the handling of the reports.

The National Bureau of Investigation shall maintain a public list of decisions to freeze funds.

Section 9

Information to international actors about a decision to freeze funds

The National Bureau of Investigation shall inform the Ministry for Foreign Affairs about its decision to freeze funds, stating the reasons for the decision.

The Ministry for Foreign Affairs informs the competent working party or committee of the Council of the European Union and of the United Nations Security Council about a decision to freeze funds under section 3, subsection 1, paragraph 2 and paragraphs 4–6, stating the reasons for the decision.

Section 10

Information about cessation of grounds for freezing funds

A police officer with the power of arrest or a prosecutor shall without delay inform the National Bureau of Investigation when a ground for freezing funds under section 3, subsection 1, paragraph 2 ceases to exist.

Section 11

Reassessment of grounds for freezing funds

Every six months from the date of a decision to freeze funds, the National Bureau of Investigation shall assess whether the grounds for freezing the funds under section 3, subsection 1 continue to exist.

Furthermore, the National Bureau of Investigation shall without delay reassess the freezing of funds,

- 1) if the subject of a decision made by virtue of section 3, subsection 1, paragraph 1 is removed from the list in the Annex of Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism;
- 2) if the criminal investigation of a suspected offence underlying a decision made by virtue of section 3, subsection 1, paragraph 2 is terminated, the prosecutor decides to waive charges for the suspected offence or the suspect is acquitted finally;
- 3) when the natural person subject to a decision made by virtue of section 3, subsection 1, paragraph 2 has served the punishment imposed on him or her for the offence underlying the decision;
- 4) if the competent authority of another State which submitted the request underlying a decision made by virtue of section 3, subsection 1, paragraph 3 requests that the decision be reversed;
- 5) if the legal person subject to a decision made by virtue of section 3, subsection 1, paragraphs 4–6 is no longer owned or controlled by a person referred to in section 3, subsection 1, paragraphs 1–3;
- 6) if the funds of the subject of a decision made by virtue of section 3, subsection 1 are frozen on the basis of a regulation of the Council of the European Union;
- 7) if the subject of the decision dies or ceases to exist; or
- 8) if the subject of a decision made by virtue of section 3, subsection 1, paragraphs 2–6 presents, or if an authority otherwise becomes aware of, circumstances which justify assuming that the subject of the decision does not engage in terrorist activities.

Anyone whose funds have been frozen shall be given an opportunity to be heard in situations referred to in subsection 2, unless it is obvious that the decision to freeze the funds will be reversed.

Section 12

Reversing a decision to freeze funds

A decision to freeze funds shall be reversed without delay, if the grounds for freezing the funds laid down in section 3 have ceased to exist or if grounds under section 11, subsection 2, paragraphs 6–8 exist for reversing the decision.

A reversal decision shall be communicated as provided in sections 4 and 9.

Section 13

Disclosure of information to the Ombudsperson of the Security Council's 1267 Committee

Notwithstanding secrecy provisions, the National Bureau of Investigation may provide the Ombudsperson of the Security Council's 1267 Committee with any documents and information that are necessary for implementing the obligations imposed on the Member States of the United Nations in United Nations Security Council Resolution 1989 (2011).

The provisions on secrecy, non-disclosure, restrictions on the use of information, forwarding information and returning provided material laid down in the conditions set by the information originator apply to any provision to the Ombudsperson of information held by the National Bureau of Investigation and received from another State or an international body.

Section 14

Enforcing a decision to freeze funds

A decision to freeze funds is enforced by a bailiff in accordance with the provisions of chapter 8, sections 1, 2, 5–10 and 12–15 of the Enforcement Code (705/2007). The expenses incurred in enforcing the decision and depositing and managing the frozen funds are borne by the subject of the decision.

A decision to freeze funds and a decision to reverse such a decision are enforced immediately regardless of appeal.

Secrecy provisions notwithstanding, credit institutions, financial institutions, insurance companies and any other actors holding information about the funds of the subject of the decision to freeze funds shall provide the information to the bailiff without delay if it is necessary for enforcing the decision.

Section 15

Liability for damages in certain cases

Anyone who has refused to transfer, alter or assign funds without an obligation to do so under section 6 or 7 shall be liable to compensate for any ensuing financial loss only if they have not acted as carefully as they, considering the circumstances, could be reasonably expected to act.

Section 16

State liability for compensation

If funds have been frozen without cause, the State shall compensate for any damage that the freezing of funds has caused to the subject of the decision to freeze the funds, and for the related expenses.

An action for compensation for damages and expenses shall, under penalty of forfeiting the right of action, be brought within one year from the date of reversing the decision to freeze the funds, or if an appeal against the decision is still pending at that date, from the date of the final adjudication of the matter.

Section 17

Request for an administrative review

An administrative review of a decision made by the National Bureau of Investigation by virtue of this Act may be requested from the National Bureau of Investigation. The Administrative Procedure Act (434/2003) lays down provisions on requesting an administrative review.

A decision made on a request for an administrative review may be appealed to the Administrative Court of Helsinki in compliance with the Administrative Judicial Procedure Act (586/1996).

Section 18

Penal provision

Punishments for violating the prohibitions under sections 6 and 7 are laid down in chapter 46, sections 1–3 of the Criminal Code.

Section 19

Entry into force

This Act enters into force on 1 June 2013.