

**Sovereign Ordinance n° 8.664 of 26 May 2021 on procedures for freezing assets and economic resources pursuant to international economic sanctions**

Having regard to the United Nations Charter and in particular Article 25 and chapter VII thereof ;

Given Law n° 1.362 of 3 August 2009 pertaining to the fight against money laundering and the financing of terrorism and corruption, as amended ;

Given Sovereign Ordinance n° 15.319 of 8 April 2002 making the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 enforceable ;

Given Sovereign Ordinance n° 15.321 of 8 April 2002 on procedures for freezing assets for the purpose of countering terrorism, as amended ;

Having regard to our Ordinance n° 621 of 4 April 2006 delegating signature authority of the Minister of State, as amended ;

Given our Ordinance n° 1.675 of 10 June 2008 pertaining to the procedures for freezing assets implementing economic sanctions, as amended ;

Given our Ordinance n° 3.559 of 5 December 2011 making the Monetary Agreement entered into on 29 November 2011 between the European Union and the Principality of Monaco enforceable ;

Given our Ordinance n° 7.386 of 8 March 2019 making the Agreement enforceable by exchange of letters of 3 and 12 December 2018 between the Government of the French Republic and the Government of the Principality of Monaco on the banking regulations applicable in the Principality of Monaco ;

**Chapter I - General provisions**

*(Chapter created by Ordinance n° 9.553 of 7 November 2022)*

**Article 1**

*(replaced by Ordinance n° 9.098 of 11 February 2022; modified by Ordinance n° 9.533 of 7 November 2022)*

The Minister of State takes measures to freeze the assets and economic resources necessary for the application of the economic sanctions imposed by the United Nations, the European Union, the French Republic or any other State, and aim to enforce standards and principles enshrined in public international law, including human rights, international democracy, peace and security.

**Article 2**

*(modified by Ordinance n° 9.533 of 7 November 2022 and Ordinance n° 10.077 of 31 July 2023)*

The measures to freeze the assets and economic resources provided for in Article 1 are laid down in the form of decisions made by the Minister of State.

They shall enter into force as from their publication on the website of the Princely Government dedicated to freezing assets and economic resources.

Any publication on the website of the Prince's Government dedicated to freezing assets and economic resources shall occur without delay within a period not exceeding 24 hours from the signature of the decision by the Minister of State.

### **Article 3**

Credit institutions and other financial institutions, insurance companies and any body, entity or person shall, without delay and without prior notification, freeze the assets and economic resources belonging to, owned, held or controlled whether in full or jointly, directly or indirectly, by natural or legal persons, entities or bodies, designated by decision of the Minister of State in the forms provided for in Article 2.

This measure is also applicable:

1. To assets and economic resources derived from or generated by assets or economic resources belonging to, owned, held or controlled, whether directly or indirectly, by these natural or legal persons, entities or bodies;
2. To assets and economic resources held by entities owned or controlled whether directly or indirectly by these natural or legal persons, entities or bodies or by any person acting on their behalf or on their orders.

### **Article 4**

*(replaced by Ordinance n° 9.098 of 11 February 2022)*

The persons and entities referred to in Article 3 may not:

- make, whether directly or indirectly, fully or jointly, in any manner whatsoever, assets or economic resources available to one or more natural or legal persons, entities or bodies designated by decision of the Minister of State made as per the terms provided for in Article 2, entities owned or controlled directly or indirectly by these natural or legal persons, entities or bodies or any person acting on their behalf or on their orders, or to use them for their benefit;
- provide or continue to provide services to these same persons, entities or bodies;
- carry out or take part, knowingly and intentionally, in transactions with the purpose or effect of circumventing, directly or indirectly, the provisions of Article 3 and the first and second indents of this article.

### **Article 5**

*(modified by Ordinance n° 9.533 of 7 November 2022)*

A national list of natural or legal persons, entities or bodies subject to asset freezing measures and economic resources shall be created pursuant to the provisions of this ordinance.

This national list, maintained by the Budget and Treasury Department, is intended for public information and is published on the website of the Princely Government dedicated to freezing assets and economic resources.

The national list includes surnames and first names, aliases, dates and places of birth, names or company names, as well as any other information relating to the identification of the natural or legal person, entities or bodies, or to the asset freezing measures.

These particulars are deleted from the national list upon expiry of the asset freezing measure.

## **Article 6**

*(modified by Ordinance n° 9.098 of 11 February 2022 and Ordinance n° 9.533 of 7 November 2022)*

The lists of natural or legal persons, groups and entities that the United Nations Security Council or its competent Committee has drawn up or updated are automatically repeated.

Pursuant to the first paragraph, the publication of these lists by the United Nations Security Council or its competent Committee gives rise to an implicit freezing decision made by the Minister of State.

Credit institutions and other financial institutions, insurance companies and any body, entity or person shall, from that publication, be required to implement the measures provided for in Articles 3 and 4.

The assets and economic resources shall be frozen for a period of ten working days, or, if it occurs before the end of that period, until the date of entry into force of the decision of the Minister of State, made as per the terms provided for in Article 2, which designates the natural or legal persons, groups and entities referred to in the first paragraph.

In the event that the decision of the Minister of State, made as per the terms of Article 2, does not take place within this period of ten working days, the implicit decision shall remain in force, and the assets and economic resources shall remain frozen until the publication of this decision.

## **Article 6-1**

*(created by Ordinance n° 9.098 of 11 February 2022)*

In accordance with Articles 1 and 2, the lists relating to natural or legal persons, groups and entities that the European Union or the French Republic have drawn up or updated are the subject of decisions of the Minister of State made as per the terms provided for in Article 2, which designate the natural or legal persons, groups and entities thus referred to.

## **Article 7**

*(replaced by Ordinance n° 9.098 of 11 February 2022; modified by Ordinance n° 9.533 of 7 November 2022 and Ordinance n° 10.077 of 31 July 2023)*

The Minister of State may designate, by decision made as per the terms provided for in Article 2, at his/her own initiative, or after examining the request of another State and given effect to it:

- a) any person or entity that commits or attempts to commit terrorist acts or which participates in or facilitates the perpetration of terrorist acts, or;
- b) any entity owned or controlled, whether directly or indirectly, by any person or entity designated in paragraph a), or;
- c) any person or entity acting on behalf of or on the instruction of any person or entity designated in paragraph a);

where it rests assured that the suggested designation is based on reasonable grounds and there are reasons to suspect that the person or entity concerned meets one of the aforementioned designation criteria. These designations are not conditional on the existence of any criminal proceedings.

The evidentiary threshold for deciding to propose a designation pursuant to this article is reasonable grounds to suspect or believe that the designation criteria as defined in the first paragraph are met.

These decisions shall be communicated to the Public Prosecutor without delay.

#### **Article 7-1**

*(created by Ordinance n° 9.098 of 11 February 2022; modified by Ordinance n° 9.533 of 7 November 2022 and Ordinance n° 10.077 of 31 July 2023)*

1) the Minister of State may decide to suggest to the competent Committees of the United Nations Security Council the designation of:

a) any person or entity involved in the financing, planning, facilitation, preparation or perpetration of acts or activities carried out by, together with, under the name of, on behalf of, in support of al-Qaeda or any cell, member, dissident group of or group derived from al-Qaeda; supplying, selling or transferring weapons and equipment associated with them; recruiting for them; or otherwise supporting their actions or activities ;

b) any company owned or controlled, whether directly or indirectly, by any person or entity designated in paragraph (a) or by persons acting on their behalf or on their instruction, or ;

c) any person or entity involved in the financing, planning, facilitation, preparation or perpetration of acts or activities by, in conjunction with, on behalf of, in support of designated persons or other persons, groups, undertakings or entities associated with the Taliban in that they pose a threat to peace, the stability and security of Afghanistan; supplying, selling or transferring weapons and equipment associated therewith; recruiting for them; or otherwise supporting the acts or activities of Afghanistan, or ;

d) any company owned or controlled, whether directly or indirectly, by any person or entity designated in paragraph (c) or by persons acting on their behalf or on their instruction ;

if it considers that it has sufficient evidence to consider that it meets one of the aforementioned designation criteria. These suggested designations are not subject to the existence of any criminal proceedings.

The evidentiary threshold for deciding to propose a designation pursuant to this article is reasonable grounds to suspect or believe that the designation criteria as defined in the first paragraph are met.

Such suggested designations shall be transmitted in accordance with the procedures and templates for registration on the lists adopted by the competent Committees of the United Nations Security Council.

2) the Minister of State may decide to request another State to give effect to national asset freezing measures taken in accordance with Article 7.

## **Article 7-2**

*(created by Ordinance n° 9.098 of 11 February 2022 ; modified by Ordinance n° 10.077 of 31 July 2023)*

An Advisory Committee on the freezing of assets and economic resources is established.

The purpose of this Committee is to:

- 1) submit to the Minister of State's consideration a suggested designation pursuant to Article 7 ;
- 2) promptly issue an opinion on the request of another State about the designation, by decision of the Minister of State made as per the terms provided for in Article 2, of persons or entities meeting one of the criteria referred to in paragraphs a) to c) of Article 7 ;
- 3) suggest to the Minister of State to make a decision to suggest a designation to the competent Committees of the United Nations Security Council pursuant to paragraph 1 of Article 7-1.

In this context, the Advisory Committee on the freezing of assets and economic resources provides:

- as much relevant information as possible on the suggested name and, in particular, sufficient identification information to enable the precise and positive identification of persons, groups, companies and entities, as well as, to the extent possible, the information required by Interpol to issue a special opinion ;
- a statement of reasons containing as much information as possible on the reasons for the registration, including specific information supporting the decision that the person or entity meets the relevant designation criteria, the nature of the information, the information and supporting documents that may be provided and information on any relationship between the person or entity whose registration is proposed and any person or entity already listed ;
- a statement specifying whether Monaco shall make its status as designating State known.

4) submit to the Minister of State a proposed request made to another State aiming to give effect to a national asset freezing measure, pursuant to paragraph 2 of Article 7-1.

For the purposes of paragraph 4), the Advisory Committee on the freezing of assets and economic resources shall provide the relevant information on the suggested name and, in particular, sufficient identification information to enable the precise and positive identification of the persons and entities and specific information supporting the decision that the person or entity meets the relevant designation criteria ;

5) on request of the Minister of State, issue an opinion on requests for the release or use of frozen assets or economic resources, in accordance with Article 9 ;

6) submit to the Minister of State a suggested repeal of decisions made in accordance with Article 7, or, on request of the Minister of State, issue an opinion on requested repeal of such decisions, with regard to persons and entities that no longer meet the criteria referred to in paragraphs a) to c) of Article 7 ;

7) ensure reciprocal information between the State departments involved in procedures for freezing assets and economic resources, as well as have knowledge of any issues of mutual interest in order to improve the effectiveness of the system put in place.

To this end, without prejudice to the provisions of Article 18 of Law No. 1.430 of 13 July 2016 laying down various measures relating to the preservation of national security, and the measures taken for its implementation, the Committee gets, through its members, any information useful for the performance of its duties.

The purpose of this Committee is not to give an opinion to the Minister of State prior to the adoption of the decisions by the Minister of State referred to in the last paragraph of Article 6 and Article 6-1.

This Committee is chaired by the Minister of Finance and Economy or his representative and includes:

- the Director of the Police Department or his/her representative, more specifically responsible for countering the financing of terrorism ;
- the General Director of the Ministry of Foreign Affairs and Cooperation or his/her representative ;
- the Director of the Monaco Financial Security Authority or his/her representative ;
- the Director of the Budget and Treasury Department or his/her representative ;
- the Director of Tax Services or his/her representative ;
- the Public Prosecutor or his/her representative.

The Chair of the Advisory Committee may invite any other persons who are not members of the Committee to participate in any activities or meetings of the Committee without voting rights.

The Budget and Treasury Department serves as secretary of this Committee

This Committee meets as necessary, on the invitation of the Chairman, either at the initiative of the latter or on the request of one of its members.

The agenda of the meeting is defined by the chairman of the Committee. Each member may request that one or more items be added to the agenda.

### **Article 7-3**

*(created by Ordinance n° 9.098 of 11 February 2022 and replaced by Ordinance n° 10.077 of 31 July 2023 and article 127 of Law n° 1.549 of 6 July 2023)*

The monitoring of the application of the provisions of this ordinance by the bodies and persons referred to in Article 1 and at numbers 1°) and 2°) of Article 2 of Law n° 1.362 of 3 August 2009, as amended, referred to above, is exercised by the agents of the service in charge of supervision within the Monaco Financial Security Authority, under the conditions provided for in Articles 54 to 56-2-1 of the said law, and by the Monaco Bar Association with respect to Solicitors, under the conditions provided for in Articles 57 to 58-2 of the said law.

When, through their investigations, the agents of the service in charge of the supervision of said Authority or the Monaco Bar Association have knowledge of facts likely to constitute the offence provided for in Article 12, they shall refer the matter to the Public Prosecutor.

## **Article 8**

*(modified by Ordinance n° 9.098 of 11 February 2022, Ordinance n° 9.533 of 7 November 2022 and modified as from 30 September 2023 by Ordinance n° 10.077 of 31 July 2023 and article 127 of law n° 1.549 of 6 July 2023)*

Notwithstanding the rules of professional secrecy, credit institutions, other financial institutions, insurance companies and other bodies, entities or persons shall promptly inform the Director of Budget and Treasury of the implementation of the measures provided for in Articles 3 and 6, and to provide him for this purpose with information on the assets and economic resources that have been subject to a freezing measure.

Information provided or received in accordance with this article shall be used only for the purposes provided for in this ordinance.

This article applies without prejudice to the provisions of Article 42 of Law n° 1.362 of 3 August 2009, as amended, referred to above, requiring the bodies and persons referred to in Articles 1 and 2 of the said law to declare, as the case may be, to the financial investigation unit within the Monaco Financial Security Authority or the Monaco Bar Association, the transactions and facts involving natural or legal persons covered by measures to freeze assets and economic resources.

### **Article 8-1**

*(created by Ordinance n° 9.533 of 7 November 2022; modified by Ordinance n° 9.827 of 15 March 2023 and Ordinance n° 10.077 of 31 July 2023)*

For the purposes of this ordinance, professional secrecy shall not prevent the exchange of information between credit institutions, other financial institutions, insurance companies, other bodies, entities or persons, and the Budget and Treasury Department, where this information is used to verify the identity of the persons concerned either directly or indirectly by asset freezing measures or to monitor transactions involving frozen assets and economic resources.

The Budget and Treasury Department shall exchange any information in connection with this ordinance with other government bodies responsible for preparing or implementing any asset freezing measures, which are as follows:

- a) the Department of Economic Development;
- b) the Department of Tax Services;
- c) the Department of Civil Aviation;
- d) the Department of Maritime Affairs;
- e) the Police Department;
- f) the Driver and Vehicle Licensing Office.

The information provided or shared shall be used only for the purposes mentioned in this article.

For the performance of their duties under this ordinance, the State departments referred to in the second paragraph shall share the necessary information with other State departments.

The other State departments referred to in the preceding paragraph may also obtain, for the performance of their duties, the necessary information from the departments mentioned in the second paragraph.

The State departments referred to in the second paragraph shall transmit to the supervisory authorities referred to in Article 8 the information necessary for the exercising of their respective duties.

The information held by the said supervisory authorities shall be used only for the purposes provided for in this ordinance.

The supervisory authorities referred to in Article 8 may transmit to the State departments referred to in the second paragraph any information relating to this ordinance useful for the exercising of their respective duties.

When identifying information likely to constitute an ignorance of the provisions of this ordinance, the supervisory authorities referred to in Article 8 shall communicate this information to the Public Prosecutor without delay.

## **Article 9**

*(modified by Ordinance n° 9.171 of 4 April 2022)*

An authorisation to release or use frozen assets or economic resources may be issued by decision of the Minister of State, in accordance with the conditions laid down by the economic sanctions decreed by the United Nations, the European Union or the French Republic.

This authorisation may be granted by the Minister of State at his own initiative or on request of any natural or legal person or other entity covered by the freezing order or any third party that may claim a right to the assets and economic resources that have been the subject of a freezing order.

This authorisation may be granted if the petitioner establishes that their request meets the conditions laid down by the economic sanctions decreed by the United Nations, the European Union or the French Republic.

The Minister of State shall notify the person who is the subject of the freezing measure and the persons and entities referred to in Article 3 who implements this decision and, where applicable, the third party who submitted the request, by any means allowing acknowledgement of receipt thereof.

## **Article 10**

In compliance with the conditions laid down by the economic sanctions decreed by the United Nations, the European Union or the French Republic:

1° Interest, other remuneration and payments may be paid into frozen accounts, provided that this interest, other remuneration and payments are frozen in accordance with Article 3 ;

2° Frozen accounts may be credited, provided that any additional amount paid into these accounts is frozen in accordance with Article 3.



The financial or credit institution shall promptly inform the Monaco Financial Security Authority thereof.

#### **Article 11**

The freezing of assets and economic resources or the refusal to allow them to be made available, in good faith on the grounds that such an action complies with the provisions of this ordinance, shall not give rise to any liability of any kind whatsoever for the legal or natural person or entity making it available, its management or its employees, unless it is established that there has been negligence.

#### **Article 12**

Any breach of the provisions of this ordinance shall be punished by the penalties provided for in point 4 of Article 26 of the Criminal Code.

#### **Article 13**

*(modified by Ordinance n° 9.533 of 7 November 2022)*

The decisions of the Minister of State made as per the terms provided for in Article 2, may be the subject of a full appeal before the Court of First Instance, within two months of the date of their publication on the website of the Princely Government dedicated to the freezing of assets and economic resources.

The implicit freezing decisions of the Minister of State referred to in Article 6, may be the subject of a full appeal before the Court of First Instance, within two months of the date on which they arose.

#### **Article 14**

*(modified by Ordinance n° 9.098 of 11 February 2022)*

For the application of this ordinance, the following are qualified:

a. "Assets": financial assets and economic benefits of any kind, tangible or intangible, physical or virtual, movable or immovable, regardless of their method of acquisition, as well as legal deeds or instruments in any form, including electronic or digital, attesting to the ownership of these assets or the related rights and in particular, but not exclusively:

- cash, cheques, cash receivables, drafts, payment orders and other instruments or means of payment ;
- deposits of funds with credit institutions and payment institutions such as repayable public funds held or paid into deposit accounts, funds paid into a payment account, funds invested in savings products or paid under individual or collective asset management contracts, the balances of these accounts or contracts ;

- funds paid on life insurance or capitalisation policies as well as the surrender value of these policies ;
- receivables ;
- debt securities, ownership and borrowing securities, such as shares, certificates representing transferable securities, bonds, promissory notes, warrants, unsecured bonds and derivative contracts, whether traded on a stock exchange or the subject of a private investment ;
- interest, dividends or other income from assets or capital gains received on assets ;
- credit, right to set-off, guarantees, performance guarantees or other financial undertakings ;
- letters of credit, bills of lading, sales contracts ;
- any document certifying the holding of units in a fund or financial resources ;
- any other export financing instrument ;
- virtual financial assets.

b. "Economic Resources" means assets of any kind, tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services.

c. "Freezing of asset": the implementation of any action aimed at preventing any movement, transfer, modification, use or manipulation of the said assets, which would result in a change in their volume, amount, location, ownership, possession, nature, destination or any other modification that could make it possible to use them, in particular the management of portfolios whose mandates are deemed suspended.

d. "Freezing of economic resources": the implementation of any action to prevent their use to obtain funds, goods or services in any way whatsoever, and in particular but not exclusively their sale, lease or mortgage.

## **Chapter II - Specific provisions for restrictive measures adopted by the European Union in respect of actions that compromise or threaten the territorial integrity, sovereignty and independence of Ukraine**

*(Chapter created by Ordinance n° 9.533 of 7 November 2022)*

### **Article 14-1**

*(created by Ordinance n° 9.533 of 7 November 2022)*

Natural or legal persons, entities or bodies designated by the Minister of State pursuant to restrictive measures adopted by the European Union in respect of the actions compromising or threatening the territorial integrity, sovereignty and independence of Ukraine:

a) declare to the Budget and Treasury Department, using the form available on the website of the Princely Government dedicated to the freezing of assets and economic resources, before 1 December 2022 or within six weeks from the date of designation, the latest date being retained, the assets or economic resources belonging to them or that they own, hold or control, in the territory of the Principality; and

b) cooperate with the Budget and Treasury Department for the purposes of any audit of that information and communicate for this purpose any information or document at its request.

Non-compliance with the preceding paragraph shall be considered as a participation, as referred to in the third indent of Article 4, in activities whose object or effect is to circumvent the provisions of Article 3 and of the first indent of Article 4.

#### **Article 14-2**

*(created by Ordinance n° 9.533 of 7 November 2022; replaced by Ordinance n° 10.077 of 31 July 2023)*

Notwithstanding the rules of professional secrecy and regarding the freezing measures decided by the Minister of State for the application of the restrictive measures adopted by the European Union with regard to actions compromising or threatening the territorial integrity, the sovereignty and independence of Ukraine, shall be required to promptly communicate to the Director of Budget and Treasury all information likely to facilitate the implementation of these decisions, such as :

- a) Information regarding the frozen assets and economic resources located on the territory of the Principality belonging to individuals or entities designated by a decision from the Minister of State taken according to Article 2 or which these individuals or entities own, hold or control and which have not been treated as frozen by the credit institutions, other financial institutions, insurance companies and other bodies, entities or persons who shall be required to treat them as such ;
- b) Information held on assets and economic resources located on the territory of the Principality belonging to individuals or entities designated by a decision from the Minister of State taken according to Article 2 or information regarding assets or economic resources owned, held or controlled by these individuals or entities and which have been subject to a movement, transfer, modification, use, manipulation or access, during the two weeks preceding such designation.

The credit institutions, other financial institutions, insurance companies and other bodies, entities or persons cooperate with the Budget and Treasury Department for the purpose of verifying this information and shall communicate promptly any information or document upon its request.

#### **Article 14-3**

*(created by Ordinance n° 9.533 of 7 November 2022)*

The information held by the Budget and Treasury Department pursuant to Articles 14-1 and 14-2 shall be used only for the purposes provided for in this ordinance.

### **Chapter III - Final provisions**

*(Chapter created by Ordinance n° 9.533 of 7 November 2022)*

#### **Article 15**

*(See Article 42 of Law n° 1.362 of 3 August 2009)*

**Article 16.**

The Sovereign Ordinances n° 15.321 of 8 April 2002 and n° 1.675 of 10 June 2008, as amended, referred to above, are revoked.

**Article 17**

Our Secretary of State, Our Secretary of State for Justice, Director of Judicial Services and Our Minister of State are each responsible for the enforcement of this ordinance.