



EUROPEAN UNION ~*FACTSHEET*~

The EU list of persons, groups and entities subject to specific measures to combat terrorism

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The EU first adopted restrictive measures against persons and entities involved in terrorist acts in December 2001, in the wake of the terrorist attacks on 11 September that year. The EU list was established in order to implement UNSCR 1373 (2001), adopted under Chapter VII of the UN Charter. To that end, the EU adopted Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.

Common Position 2001/931/CFSP lays down the criteria for listing persons, groups or entities involved in terrorist acts and identifies the actions that constitute terrorist acts.

Council Regulation (EC) No 2580/2001 provides for a freezing of all funds, other financial assets and economic resources belonging to the persons, groups and entities concerned. In addition, it establishes that no funds, other financial assets and economic resources may be made available to them, whether directly or indirectly. It also provides for humanitarian exemptions allowing the use of funds in certain circumstances such as payments for foodstuffs, medicines or legal fees

All persons, groups and entities on the list annexed to Common Position 2001/931/CFSP, and subsequent amendments, are subject to enhanced measures relating to police and judicial cooperation in criminal matters within the framework of the Treaty on the European Union. In addition, those persons, groups and entities which are also on the list provided for in Council Regulation (EC) No 2580/2001 are subject to an asset freeze implemented by the European Community.

P R E S S

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The EU list is separate from the EU regime implementing UN Security Council Resolution 1390 (2002) on the freezing of funds of persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban (Council Regulation (EC) No 881/2002).

Criteria for listing

Common Position 2001/931/CFSP applies to persons, groups and entities involved in terrorist acts, when a decision has been taken by a competent authority in respect of the person, group or entity concerned.

Such decision may concern the instigation of investigations or prosecution for a terrorist act, an attempt to carry out or facilitate such an act based on serious and credible evidence or clues, or condemnation for such deeds.

A competent authority is a judicial authority or, where judicial authorities have no competence in the area, an equivalent competent authority.

What constitutes a terrorist act under Common Position 2001/931/CFSP?

Article 1(3) of Common Position 2001/931/CFSP sets out the meaning of "terrorist act".

"Terrorist acts" mean intentional acts which, given their nature or context, may seriously damage a country or international organisation and which are defined as an offence under national law. These include:

- attacks upon a person's life which may cause death;
- attacks upon the physical integrity of a person;
- kidnapping or hostage taking;
- causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility;
- seizure of aircraft, ships or other means of public or goods transport;
- manufacture, possession, acquisition, transport, supply or use of weapons, explosives, or of nuclear, biological or chemical weapons,
- participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the group.

In order for these acts to constitute terrorist acts, they must be carried out with the aim of seriously intimidating a population, or unduly compelling a Government or an international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

Procedure

During the first half of 2007, the Council conducted a thorough review and consolidation of its procedures for the listing and de-listing of persons, groups and entities pursuant to Common Position 2001/931/CFSP and Council Regulation (EC) No 2580/2001.

As a result of this review, concrete improvements were agreed in order to establish a clearer and more transparent procedure. The main elements of the applicable procedure are set out below.

A new working party, the "Working Party on implementation of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism" (CP 931 Working Party) has been established and charged with examining proposals for listings and de-listings and with preparing the regular review of the list by the Council as foreseen in Article 1(6) of Common Position 2001/931/CFSP. The CP 931 Working Party replaces the informal consultation mechanism among Member States that has been in place since 2001.

Persons, groups and entities can be included on the list on the basis of proposals submitted by Member States or third States. All relevant information should be presented in support of proposals for listings. This information is circulated to the delegations of Member States for discussion in the CP 931 Working Party.

The CP 931 Working Party examines and evaluates information with a view to listing and de-listing of persons, groups and entities, and to assessing whether the information meets the criteria set out in Common Position 2001/931/CFSP. It will then make recommendations for listing and delisting to be reflected in the necessary legal instruments, which will be adopted by the Council and published in the Official Journal.

Confidentiality of the proceedings of the CP 931 Working Party is ensured as appropriate.

Statement of reasons

For each person, group and entity subject to restrictive measures under Council Regulation (EC) No 2580/2001, the Council provides a statement of reasons which is sufficiently detailed to allow those listed to understand the reasons for their listing and to allow the Community Courts to exercise their power of review where a formal challenge is brought against the listing.

The statement of reasons makes clear how the criteria set out in Common Position 2001/931/CFSP have been met. It begins with a statement that the person, group or entity concerned has been involved in terrorist acts. It includes the following specific elements:

- terrorist acts committed with reference to relevant provisions of Common Position 2001/931/CFSP;
- nature or identification of the competent authority which took a decision in respect of the person, group or entity concerned;
- type of decision taken, with reference to the relevant provisions of Common Position 2001/931/CFSP.

Notification

After a listing decision has been taken by the Council, the Council Secretariat informs each person, group and entity subject to restrictive measures under Council Regulation (EC) No 2580/2001, by sending a letter of notification to their address, wherever this is practicably possible. The letter includes the following elements:

- a description of the restrictive measures taken;
- a mention of the humanitarian exemptions available;
- the Council's statement of reasons for the listing;
- reference to the possibility for the person, group or entity to send a file to the Council with supporting documents, asking for their listing to be reconsidered;
- reference to the possibility of an appeal to the Court of First Instance in accordance with the EC Treaty;
- a request for consent of the listed person, group or entity to give public access to the statement of reasons.

In addition, a notice is published in the Official Journal informing the persons, groups and entities subject to restrictive measures under Council Regulation (EC) No 2580/2001 about these elements.

This notice also serves to inform the persons, groups and entities whose address is not known of the possibility to obtain the Council's statement of reasons concerning them.

Review procedure

The Council reviews the list at regular intervals and at least every six months.

Member States inform each other about any new facts and developments relating to listings.

In the letter of notification, the persons, groups and entities concerned are invited to make their views known.

For the purpose of the review, the CP 931 Working Party carries out a thorough assessment as to whether the grounds for each listing are still valid. It takes into account all relevant considerations, including the person's, group's or entity's past record of involvement in terrorist acts, the current status of the group or entity and the perceived future intentions of the person, group or entity.

Following this assessment, the CP 931 Working Party makes recommendations to be reflected in the necessary legal instruments to be adopted by the Council. The legal instruments contain the new lists of persons, groups and entities and are published in the Official Journal. The groups, persons and entities concerned are informed of the outcome of the review with a new letter of notification.

In addition to the regular review, and independently of it, the Council can, at any time, adopt a decision on listing or delisting of persons, groups and entities.

De-listing

In addition to requests by listed persons, groups and entities, a request for a de-listing can be made by a Member State or the third State which had originally proposed the listing in question. All requests for de-listing are discussed in the CP 931 Working Party as a matter of priority.

De-listing is appropriate wherever the criteria for listing set out in Common Position 2001/931/CFSP are no longer met. De-listing may also be appropriate in other cases, e.g. the death of a listed person or the liquidation of a listed entity.

The regular review carried out by the Council has led to the de-listing of 10 persons and five groups and entities since 2002.

The current list

A new list was published on 22 December 2007 (OJ L 340, p. 109). The list includes 54 persons and 48 groups and entities. Of these, 35 persons and 30 groups and entities are subject to restrictive measures (freezing of assets) pursuant to Council Regulation (EC) No 2580/2001.

To reflect this, two legal instruments have been published in the Official Journal: a Common Position updating Common Position 2001/931/CFSP, which lists all the persons, groups and entities involved in terrorist acts to which the latter Common Position applies, and a Council Decision adopted on the basis of Council Regulation (EC) No 2580/2001, which establishes which persons, groups and entities, among those listed in the Common Position, are also subject to the restrictive measures provided for in that Regulation.

In addition, a notice with the elements mentioned in the "notification" section above was also published in the "C" series of the Official Journal.

A new list is expected to be published in June 2008 following the next regular review.

What options are open to a listed person, group or entity?

Persons, groups and entities included in the list can:

- request the Council to reconsider their case, on the basis of supporting documentation;
- challenge the decision of the national competent authority according to national procedures;
- if subject to restrictive measures under Council Regulation (EC) No 2580/2001, challenge the Council's decision before the Court of First Instance of the European Communities, in accordance with the conditions laid down in Article 230(4) and (5) of the Treaty establishing the European Community;
- if subject to restrictive measures under Council Regulation (EC) No 2580/2001, request humanitarian exemptions to cover basic needs.