

REGISTER NUMBER: 538

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 21/10/2009

Case number: 2009-683

Institution: Commission

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and address of the controller

2) Name and First Name of the Controller: RUIZ CALAVERA Genoveva

3) Title: Head of Unit

4) Directorate, Unit or Service to which the Controller is attached: DDG1.A

5) Directorate General to which the Controller is attached: RELEX

2/ Organisational parts of the institution or body entrusted with the processing of personal data

26) External Company or Directorate General to which the Processor is attached:

25) External Company or Directorate, Unit or Service to which the Processor is attached:

3/ Name of the processing

Processing concerning asset freezing (sanctions) regulations, including Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban

4/ Purpose or purposes of the processing

Data are processed in order to prepare Commission Regulations with amendments to lists of persons subject to asset freezing such as annex I of Council Regulation (EC) No 881/2002 and to perform other tasks under relevant Council regulations.

They are also processed:

- to prepare letters to the natural persons containing the grounds for listing and related consultations with Member States.
- to update the electronic, consolidated targeted financial sanctions database and list available at http://ec.europa.eu/external_relations/cfsp/sanctions/list/consol-list.htm .
- to make overviews of aggregate amounts frozen in the EU and to answer questions concerning identification of, and granting of authorisations to, the natural persons concerned.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

a) Natural persons included in an asset freezing list and natural persons who, while having the same name as a listed person, claim they are not a listed person.

b) Lawyers representing natural persons.

see para 17

16) Category(ies) of Data Subjects:

(a) Natural persons included in the UN Al Qaida and Taliban list and natural persons who, while having the same name as a listed person, claim they are not the listed person.

(b) Lawyers representing natural persons at (a).

6/ Description of the data or categories of data (including, if applicable, special categories of data (article 10) and/or origin of data)(including, if applicable, special categories of data (article 10) and/or origin of data)

17) Data field(s) of Data Subjects:

Attention: Please indicate and describe in the answer to this question also data fields which fall under article 10

(a) Natural persons included in the UN Al Qaida and Taliban list and natural persons who, while having the same name as a listed person, claim they are not the listed person.

Surname, given names (including alias names)

Date and place of birth

Nationality, passport and ID card numbers

Fiscal and social security numbers

Sex

Address or other information on whereabouts

Function or profession

Names of the father and of the mother

Name of the spouse

Telephone and fax numbers, email address

Information on nature of association with Al Qaida or the Taliban, including information on arrests and convictions

Amount of funds and economic resources frozen

Information on authorisations granted

Information on appeal against listing, if any

(b) Lawyers representing natural persons at (a).

Surname, given names

Law firm

Address

Telephone and fax numbers, email address

18) Category(ies) of data fields of Data Subjects:

Attention: Please indicate and describe in the answer to this question also categories of data fields which fall under article 10

See para 17.

7/ Information to be given to data subjects

15a) Which kind of communication(s) have you foreseen to inform the Data Subjects as described in articles 11 - 12 under 'Information to be given to the Data Subject'

The main purpose is to prepare amendments of Annex I to Regulation (EC) No 881/2002, which are published in the Official Journal. Up to now only data publicized by the UN or EU have been published. Listed natural persons (data subjects) receive a statement of reasons on which they can give their views. The letter containing the statement of reasons, stamped "European Commission" , includes the following paragraph, by way of example:

?The follow-up to this letter requires the recording of your personal data (name, address etc.) by the Commission, and their further processing to perform its tasks under Regulation (EC) No 881/2002.

The personal data will be handled in accordance with the rules of Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and

8/ Procedures to grant rights of data subjects (rights of access, to rectify, to block, to erase, to object)(rights of access, to rectify, to block, to erase, to object)

15b) Which procedure(s) did you put in place to enable Data Subjects to exert their rights: access, verify, correct, etc., their Personal Data as described in articles 13 - 19 under 'Rights of the Data Subject' :

See at a).

NB. Given the obligation to amend Annex I to Regulation (EC) No 881/2002, the right to object to processing granted by Article 18(a) cannot be exercised as regards data published in that Annex.

9/ Automated / Manual processing operation

7) Description of Processing:

Attention: Please describe in the answer to this question if you process personal data falling under article 27 "Prior-Checking (by the EDPS - European Data Protection Supervisor)"

Processing of:

- personal data publicized by the Security Council of the United Nations (see <http://www.un.org/sc/committees/1267/consolist.shtml> and relevant UN press releases);
- personal data provided by the data subject, e.g. when making his or her views on the statement of reasons known;
- personal data provided by economic operators in accordance with Article 5 of Regulation (EC) No 881/2002;
- personal data provided by Member States in accordance with Articles 5 and 8 of Regulation (EC) No 881/2002.

Taking into account that Regulation (EC) No 881/2002 targets the terrorist groups Al Qaida and the Taliban, data processed occasionally includes data related to suspected offences, offences, criminal convictions or security measures

Article 27 is applicable

8) Automated Processing operation(s):

Data are processed in order to prepare Commission Regulations with amendments to lists of persons subject to asset freezing such as annex I of Council Regulation (EC) No 881/2002 and to perform other tasks under relevant Council regulations.

Up to now only data publicized by the UN or the EU (in CFSP common position) have been published. The published data are subsequently included in a database the electronic, consolidated targeted financial sanctions database.

Personal data received from the UN or States and from the listed person (data subject) are processed to prepare, review and send statements of reasons for listing.

Data concerning frozen assets are used to calculate the aggregate amount of frozen assets in the EU.

9) Manual Processing operation(s):

All available information concerning a listed person is kept in a folder. This folder includes non-published information, in particular information on which the statement of reasons is based, the letter containing the statement of reasons, the letter containing the listed person's views on the statement of reasons, and information on frozen assets and authorisations granted. The folder also includes information on the appeal lodged against the Commission Regulation listing the natural person concerned, if there is one.

10/ Storage media of data

Paper folders kept locked and electronic repository protected by password.

The letters from listed persons and their lawyers are put into ARES but in such a way that only the persons handling the files have access.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Council Regulation (EC) No 881/2002, and in particular Article 7(1) of that Regulation.
regulation ;

Council regulations on North Korea, Cote d Ivoire, Belarus, Zimbabwe, Sudan, Irak and other countries.

12) Lawfulness of Processing:

Answering this question please also verify and indicate if your processing has to comply with articles 20 "Exemptions and restrictions" and 27 "Prior checking (by the EDPS)"

Article 5(b) of Regulation (EC) No 45/2001.

A list of sanctions or restrictive measures in force adopted in the framework of the CFSP can be found at:
http://ec.europa.eu/external_relations/cfsp/sanctions/measures.htm

Article 27 of the data protection regulation is applicable

12/ The recipients or categories of recipient to whom the data might be disclosed

20) Recipient(s) of the Processing:

Some data are published in the Official journal as part of Annex I to Regulation (EC) No 881/2002. Such published data include the identifiers provided by the UN (names, date and place of birth, nationality, passport and ID card numbers, fiscal and social security numbers, address, function or profession, sometimes the names of the father, the mother or the spouse), which are needed by economic operators and public authorities to apply the asset freezing measures set out in Articles 2(1) and 2(2) of Regulation (EC) No 881/2002.

The statement of reasons is not published, but is part of the interservice consultation concerning Regulations adding natural or legal persons to Annex I and thus shared (using Cisnet) with the Legal Service, DG Justice Liberty and Security, DG Internal Market and other services whose approval is required on draft Commission Regulations concerning Annex I to Regulation (EC) No 881/2002 .

21) Category(ies) of recipients:

See para 20

13/ retention policy of (categories of) personal data

The personal data shall be kept until the natural person (data subject) is removed from the UN Al Qaida and Taliban list and from Annex I to Council Regulation (EC) No 881/2002. Where necessary in view of pending lawsuits, the personal data shall be kept until the judgement on the case is final.

13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject) (Please, specify the time limits for every category, if applicable)
(on justified legitimate request from the data subject)
(Please, specify the time limits for every category, if applicable)

22 b) Time limit to block/erase data on justified legitimate request from the data subjects

Any legitimate request is checked and validated by the Controller within 3 months; this fundamental right can be exerted by all natural persons especially those having the same name as a listed person.
Request can be introduced as long as the regulation is in force

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

22 c) Historical, statistical or scientific purposes - If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification

15/ Proposed transfers of data to third countries or international organisations

27) Legal foundation of transfer:

Only transfers to third party countries not subject to Directive 95/46/EC (Article 9) should be considered for this question. Please treat transfers to other community institutions and bodies and to member states under question 20.

Transfers to third countries and to the United Nations are not foreseen unless the Council regulation on sanctions provides for it.

28) Category(ies) of Personal Data or Personal Data to be transferred:

n/a

16/ The processing operation presents specific risk which justifies prior checking (please describe): *(please describe)*):

7) Description of Processing:

Attention: Please describe in the answer to this question if you process personal data falling under article 27 "Prior-Checking (by the EDPS - European Data Protection Supervisor)"

Processing of:

- personal data publicized by the Security Council of the United Nations (see <http://www.un.org/sc/committees/1267/consolist.shtml> and relevant UN press releases);
- personal data provided by the data subject, e.g. when making his or her views on the statement of reasons known;
- personal data provided by economic operators in accordance with Article 5 of Regulation (EC) No 881/2002;
- personal data provided by Member States in accordance with Articles 5 and 8 of Regulation (EC) No 881/2002.

Taking into account that Regulation (EC) No 881/2002 targets the terrorist groups Al Qaida and the Taliban, data processed occasionally includes data related to suspected offences, offences, criminal convictions or security measures

Article 27 is applicable

12) Lawfulness of Processing:

Answering this question please also verify and indicate if your processing has to comply with articles 20 "Exemptions and restrictions" and 27 "Prior checking (by the EDPS)"

Article 5(b) of Regulation (EC) No 45/2001.

A list of sanctions or restrictive measures in force adopted in the framework of the CFSP can be found at: http://ec.europa.eu/external_relations/cfsp/sanctions/measures.htm

Article 27 of the data protection regulation is applicable

Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject,

n/a

Article 27.2.(c) Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

n/a

Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept in Article 27.1)

n/a

17/ Comments

1) Date of submission:

10) Comments if applicable:

The review of listing decisions takes place further to the ECJ judgment of 3 September 2008 (Joint cases C-402/05 P and C-415/05 P) in the Kadi and Al Barakaat International Foundation cases.

36) Do you publish / distribute / give access to one or more printed and/or electronic directories?

Personal Data contained in printed and/or electronic directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.

If Yes, please explain what is applicable.

no

37) Complementary information to the different questions if applicable, including attachments to this notification which should not be public :

Incoming and outgoing letters are kept in folders which are kept in an office in the class 2 secure zone (Charlemagne, 12th floor) and entered into the Commission database for incoming and outgoing mail, Ares. Letters from and to the data subjects containing personal data are entered in such a way that only Unit members have access to them (security level: limited to service).

The information publicized by the United Nations is in the public domain; the press releases are stored electronically in the . After processing, an amendment of Annex I to Regulation (EC) No 881/2002 is the object of an interservice consultation (CIS-net database), translation (DGT database) and approval on behalf of the Commission (e-Grefte database), before it is published in the Official Journal.

PLACE AND DATE:21/10/2009

DATA PROTECTION OFFICER: RENAUDIÈRE Philippe

INSTITUTION OR BODY:European Commission