

REGISTER NUMBER: 600

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 14/06/2010

Case number: 2010-0426

Institution: European 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 of personal data in connection with regulations requiring asset freezing as CFSP related restrictive measures (listed in point 11). These Regulations comprise lists of natural and legal persons, entities, bodies and groups.

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 such as:

- preparing letters to the natural persons containing the grounds for listing and related consultations with Member States.
- making overviews of aggregate amounts frozen in the EU and to answer questions concerning identification of, and granting of authorizations to, the natural persons concerned
- consolidating of published lists in the electronic, consolidated targeted sanctions list available on the Commission website (http://ec.europa.eu/external_relations/cfsp/sanctions/consol-list_en.htm),
- answering questions concerning identification of, and granting of authorisations to, listed persons.

The last indent refers to requests from economic operators and competent authorities, who may turn to the Commission, either directly or in the context of discussion about the implementation of restrictive measures in Council, asking for additional information on a listed person not published in the Official Journal where it is unclear to them whether a customer is a listed person or a transaction has been authorized. It also refers to Parliamentary Questions, although the Commission will, in principle, not inform of any specific person's frozen assets and the number of accounts concerned since the replies to such questions are made public.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

- a) Natural persons included in asset freezing lists and natural persons who, while having the same name as a listed person, claim they are not a listed person.
- b) Lawyers representing such listed natural persons or listed legal persons, entities, bodies or groups.

16) Category(ies) of Data Subjects:

- (a) Natural persons included in assets freezing lists 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 assets freezing lists 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 authorizations 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

Name of client

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'

see attachement on para 37

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 statutory obligation to amend published lists, such as 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 such lists.

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 Council, Member States (notably Heads of diplomatic missions) and, where applicable, the UN Security Council;

- 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 provisions such as Article 5 of Regulation (EC) No 881/2002;
- personal data provided by Member States in accordance with provisions such as Articles 5 and 8 of Regulation (EC) No 881/2002.

The data processed occasionally includes data related to suspected offences, offences, criminal convictions or security measures, especially where asset freezing targets terrorist activities.

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 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, which may comprise 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 authorizations 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 unit handling the files have access (limited access on a need-to-know basis). When the Member States and other services are informed of such letters, the password protected CIRCA system is used.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Council Regulation (EU) No 356/2010 on Somalia

Council Regulation (EU) No 1284/2009 on Guinea (Conakry)

Council Regulation (EC) No 194/2008 on Myanmar (Burma)

Council Regulation (EC) No 423/2007 on Iran

Council Regulation (EC) No 329/2007 on the Democratic People's Republic of Korea

Council Regulation (EC) No 765/2006 on Belarus

Council Regulation (EC) No 305/2006 on Lebanon (which currently has a blank annex)

Council Regulation (EC) No 1184/2005 on Sudan

Council Regulation (EC) No 1183/2005 on the Democratic Republic of Congo

Council Regulation (EC) No 560/2005 on Côte d'Ivoire

Council Regulation (EC) No 1763/2004 on certain persons indicted by the International Criminal Tribunal for the former Yugoslavia

Council Regulation (EC) No 872/2004 on Liberia

Council Regulation (EC) No 314/2004 on Zimbabwe

Council Regulation (EC) No 1210/2003 on Iraq

Regulation (EC) No 881/2002 (as amended by Regulation (EU) No 1286/2009) on Al-Qaida and Taliban, in particular art 7d (1)

Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

Council Regulation (EC) No 2488/2000 on the Federal Republic of Yugoslavia

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/docs/measures_en.pdf

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:

see attachement on para 37

21) Category(ies) of recipients:

See para 20

13/ retention policy of (categories of) personal data

The folders with personal data shall be kept at least until the natural person (data subject) is removed from the assets freezing lists. Where necessary in view of pending lawsuits, the personal data shall be kept until the judgment on the case is final.

NB. Published data are subject to the rules of the Official Journal and are kept in the consolidated list database after removal from the relevant annex to a Regulation (so called "logical delete")

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

Request from listed persons or those having the same name as the listed persons can be introduced as long as the regulation is in force.

Requests are checked and validated by the Controller within 3 months.

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.

As stated in the reply to question 15, the letters notifying the grounds for listing, such as those sent to persons listed under Regulation 881/2002, state that the Commission reserves the right to bring any response to the attention of the relevant UN Security Council Committee or governments of third countries unless the listed person objects. The absence of objection should be seen as consent in the sense of Article 9(6)(a) of Regulation (EC) No 45/2001.

In some cases there is a specific statutory obligation to exchange information with the UN (see Articles 7a(3) and 7c(3) of Regulation 881/2002).

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

see para 27

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

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- personal data provided by the Council, Member States (notably Heads of diplomatic missions) and, where applicable, the UN Security Council;
- 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 provisions such as Article 5 of Regulation (EC) No 881/2002;
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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,

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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,

n/a

Other (general concept in Article 27.1)

n/a

17/ Comments

1) Date of submission:

10) Comments if applicable:

As regards Regulation (EC) No 881/2002, the review of listing decisions takes place further to Regulation (EU) No 1286/2009 amending Regulation 881/2002. Unlike several older Regulations, Regulation (EC) No 881/2002 makes explicit reference to processing of personal data.

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).

CFSP acts with relevant lists are published in the Official Journal. The information publicized by the United Nations is in the public domain; the press releases are stored electronically in the computers of the members of staff dealing with the regulations concerned. After processing, an amendment of e.g. 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.

Where required, Member States (e.g. in the Committee created by Article 7b of Regulation 881/2002) are consulted beforehand.

PLACE AND DATE:03/06/2010

DATA PROTECTION OFFICER: RENAUDIÈRE Philippe

INSTITUTION OR BODY:European Commission