

*(To be filled out in the EDPS' office)*

**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 03/09/2012**

**CASE NUMBER: 2012-0724**

**INSTITUTION: COUNCIL**

**LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001<sup>(1)</sup>**

**INFORMATION TO BE GIVEN<sup>2</sup>**

1/ NAME AND ADDRESS OF THE CONTROLLER

Director General of DG C

DG C - Foreign affairs, Enlargement and Civil protection  
Council of the European Union Wetstraat 175 - 1048 Brussels  
Phone: +32 2 285 61 11 - Fax +32 2 285 73 97

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

DG C - Coordination Unit - Phone (+32(0)22815127)

3/ NAME OF THE PROCESSING

Processing of personal data in the context of restrictive measures with a view to combating terrorism (Regulation (EC) 2580/2001).

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of processing is establishment and reviewing of the list of persons subject to restrictive measures and sufficient identifying information related to them on the one hand (with a view to publication of that list in the Official Journal), as well as of Statements of Reasons for designation of those persons on the other hand (this data remains on the file, access to it is only granted to data subjects and their lawyers).

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> **Please attach all necessary backup documents**

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Natural persons who commit, or attempt to commit, terrorist acts or who participate in, or facilitate the commission of terrorist acts (UNSCR 1373(2001), referred to in recital 3 of Regulation (EC) No 2580/2001) and who are for that reason subject to restrictive measures (asset freeze).

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

Personal data collected includes a broad range of data necessary for the correct identification of the person concerned, in particular: name, aliases, sex, date and place of birth, nationality, passport or ID card numbers, address or whereabouts of the person, function or profession, membership or links to terrorist organisations. The identification data that is considered necessary for guarantying the correct identification of the person is normally published together with the name. Special data categories (Article 10 of Regulation (EC) No 45/2001) include national administrative decisions, criminal convictions, indictments or indications showing that persons concerned were involved in terrorist activities. Such data is never published. All data originates from Member States, EU institutions or the UN.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Legal acts containing names of designated persons and identifying information related to them are published in the Official Journal. If an address of the listed person concerned is available, the Statement of Reasons for his/her listing is sent to him/her. In case the data subject's address is not known, the only means of information is a notice published in the "C" series of Official Journal at the time of listing.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

(Rights of access, to rectify, to block, to erase, to object)

Section 5 of Council Decision 2004/644/EC of 13.9.2004 (OJ L n° 296, 21.9.2004, p.20).

Access to Statements of Reasons is granted to the data subject or her/his lawyers upon request once the listing has been adopted. Limited right of access: Without prejudice to restrictions provided for in Article 20(1)(a) and (d) of Regulation (EC) No 45/2001, requests for access, as well as duly justified and documented requests for rectification of data collected, can be made by the data subject or her/his lawyers. These requests will be answered in accordance with section 5 of Council Decision 2004/644/EC, after obtaining appropriate agreement by the Council. Access to the file can only be granted after the consent of the proposing Member State has been obtained.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Pursuant to Article 2(3) of Regulation (EC) 2580/2001, the Council of the European Union acting by unanimity establishes, reviews and amends the list of persons, groups and entities whose assets are to be frozen. The list is based on precise information supplied by Member States' competent authorities. This mostly relates to information from judicial or equivalent authorities after a decision has been taken on "the instigation of investigations or prosecution for a terrorist act, an attempt to perpetrate, participate in or facilitate such an act based on serious and credible evidence or clues, or condemnation for such deeds". At least twice per year, the Council draws up an Implementing Regulation updating the list of persons, groups and entities subject to the asset freeze. The list is part of the legal act and is as such published in the Official Journal and available to the public.

Processing mainly consists of the following: - collection of personal data, as referred to above, provided by Member States, EU institutions (the European External Action Service or the Commission) or by the United Nations in relation to on the one hand already designated natural persons, or to natural persons proposed for listing; - subsequent transfer of collected personal data to Member States' delegations, Commission and EEAS; - publication of the list of designated persons in the Official Journal; - update and, if appropriate, modification of collected data; - storage of collected data; - maintaining correspondence with listed natural persons or their lawyers, including granting access by the data subject or its lawyers to the file; - disclosure of personal data of listed natural persons for the purpose of court proceedings.

Taking into account that the collection and subsequent transfer, as well as disclosure of personal data for the purpose of court proceedings, is often done through confidential COREUs which are only available to the processor in paper version, the collection and subsequent transfer are only partly automated (paper or electronically). Modification and storage of collected data is fully automated. Maintaining correspondence with listed natural persons implies drafting of reply letters to data subjects/their lawyers, therefore data processing in this context is only partly automated.

10/ STORAGE MEDIA OF DATA

All personal data is kept and is being exchanged either through secured electronic data-bases (COREU system) or kept in locked-up folders.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Article 2(3) of Council Regulation (EC) No 2580/2001.

Processing of personal data is necessary for the performance of a task carried out in the public interest on the basis of the TFEU (adoption of restrictive measures with a view to combating terrorism) - Article 5(a) of Regulation (EC) 45/2001.

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

- In the making of listing decisions all data collected is shared with Member States delegations, the Commission and EEAS; - names and data considered relevant for the correct identification of that person is included in the legal acts and published in the Official Journal; - in the framework of requests for access to the file or where an address is available, personal data collected is forwarded to data subjects or their lawyers; - in the context of court proceedings, elements of personal data might be relied upon by the Council in the proceedings.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

According to Article 46 of the Statute of the Court of Justice, proceedings against the Union in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. Therefore all personal data is stored during 5 years from the moment the data subject has been removed from the list of persons subject to restrictive measures or the validity of the measures has expired, or for the duration of court proceedings in the event they had been started.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS  
*(Please, specify the time limits for every category, if applicable)*

See point 8 above.

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.*

Personal data is not stored for historical, statistical or scientific use.

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

Personal data is not transferred to third countries or international organisations.

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (*Please describe*):

AS FORESEEN IN:

↑ Article 27.2.(a)

*Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,*

Processing includes data relating to national administrative decisions, criminal convictions, indictments or indications showing that persons concerned were involved in terrorist activities (see point 3.2) - Article 27(2)(a) of Regulation (EC) No 45/2001.

↑ Article 27.2.(d)

*Processing operations for the purpose of excluding individuals from a right, benefit or contract,*

Furthermore, the purpose of processing is the imposition, by the Council, of an asset freeze of resources belonging to designated persons - Article 27(2)(d) of Regulation (EC) No 45/2001.

17/ COMMENTS

None.

18/ MEASURES TO ENSURE SECURITY OF PROCESSING<sup>3</sup> :

Please check all points of Article 22 of Regulation (EC) 45/2001

PLACE AND DATE: Brussels, 3 September 2012

DATA PROTECTION OFFICER: Carmen López Ruiz

INSTITUTION OR BODY: General Secretariat of the Council of the European Union

<sup>3</sup> Not to be published in the EDPS' Register (Art. 27(5) of Regulation (EC) N°: 45/2001)

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