

**NOTIFICATION FOR PRIOR CHECKING**

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

**CASE NUMBER: 2012-0725**

**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)2 281 51 27)

3/ NAME OF THE PROCESSING

Processing of personal data in the context of EU autonomous restrictive measures.

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of processing is establishment and updating of the list of persons subject to an asset freeze, sufficient identifying information related to them and of Statements of Reasons for their designation with a view to publication in the Official Journal.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

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

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

Natural persons who fulfil listing criteria as laid down in the relevant Regulation and who are consequently subject to an 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 names (including aliases), date and place of birth, nationality, passport and ID card numbers, gender, address, if known, and function or profession. The identification data that is considered necessary for guarantying the correct identification of the person is published together with the name. Further personal data supplied by proposing Member States or EEAS can be included in the Statement of Reasons that are published together with the lists and whose main purpose is to explain how the individual concerned fulfils the criteria for listing. All data originates from Member States or EEAS.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Legal acts containing names of designated persons, identifying information related to them and Statements of Reasons for their listing are published in the Official Journal. If an address of the listed person concerned is available, a letter informing the person concerned of his/her designation is sent. 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).

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 reaching appropriate agreement by the Council. Access to the file can only be granted after the consent of the originator of information concerned (Member State, External Action Service) has been obtained.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

This notification covers the processing of personal data by the Council of the EU in relation to the establishment of all EU autonomous and "mixed" (EU autonomous and UN) sanctions regimes. For the UN part of restrictive measures contained in the mixed regimes, please refer to notification 225N00 (specific notification for those regimes). The relevant measure in relation to personal data protection is the asset freeze.

The sanctions regimes concerned by this notification, with the appropriate Council Regulations imposing the restrictive measures, are as follows:

1. BELARUS (EU autonomous) Council Regulation (EC) No 765/2006
2. BURMA (MYANMAR) (EU autonomous - currently suspended so no processing of new data) Council Regulation (EC) No 194/2008

3. CÔTE D'IVOIRE (mixed UN and EU measures) Council Regulation (EC) No 560/2005
4. EGYPT (2011) (EU autonomous) Council Regulation (EU) No 270/2011
5. REPUBLIC OF GUINEA (CONAKRY) (EU autonomous) Council Regulation (EC) No 1284/2009
6. REPUBLIC OF GUINEA-BISSAU (EU autonomous) Council Regulation (EU) No 377/2012
7. IRAN - Human Rights (EU autonomous) Council Regulation (EU) No 359/2011
8. IRAN - Non-proliferation (mixed UN and EU measures) Council Regulation (EU) No 961/2010
9. DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (NORTH KOREA) (mixed UN and EU autonomous) Council Regulation (EC) No 329/2007
10. LIBYA (UN and EU autonomous measures) Council Regulation (EU) No 204/2011
11. SUDAN (UN and EU autonomous measures) Council Regulation (EC) No 131/2004
12. SYRIA (2011) - (EU autonomous) Council Regulation (EU) No 36/2012
13. TUNISIA (EU autonomous) Council Regulation (EU) No 101/2011
14. ZIMBABWE (EU autonomous) Council Regulation (EC) No 314/2004.

Pursuant to Article 215 TFEU, the Council of the European Union establishes reviews and amends lists of persons and entities whose assets are to be frozen. The lists are based on information supplied by Member States or EU Delegations (through European External Action Service), proposing the listing. Council Regulations set out clear criteria for listing. Information supplied as Statement of Reasons by proposing Member State/EEAS has to satisfy those criteria (in the case of Syria for example, the listing criteria are laid down in Article 15(1)(a) and (b) of Regulation (EU) No 36/2012). Existing EU autonomous designations are kept under constant review and are reviewed by the Council at least every 12 months. The lists of persons subject to asset freeze, as well as the identifying information and Statements of Reasons become part of the legal acts themselves and are therefore 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 or EU institutions (the European External Action Service) 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, the Commission and the EEAS; - publication of the list of designated persons and of accompanying identifying information and Statements of Reasons 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 215 TFEU. New designations within an existing sanctions regime are done through implementing legal acts that are based on the Regulation establishing the regime.

Processing of personal data is necessary for the performance of a task carried out in the public interest on the basis of the TFEU - 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 the EEAS; - names and data deemed necessary 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 the asset freeze or the validity of the measure 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*):

↑ Article 27.2.(a)

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

Processing might in certain cases include processing of sensitive data: membership of different types of terrorist or paramilitary organisations and similar.

↑ Article 27.2.(d)

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

The purpose of the processing is the imposition by the Council of an asset freeze, therefore processing should be considered as likely to present specific risks within the meaning of 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)