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Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism

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Council Common Position

of 27 December 2001

on the application of specific measures to combat terrorism

(2001/931/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 15 and 34 thereof,

Whereas:

(1) At its extraordinary meeting on 21 September 2001, the European Council declared that terrorism is a real challenge to the world and to Europe and that the fight against terrorism will be a priority objective of the European Union.

(2) On 28 September 2001, the United Nations Security Council adopted Resolution 1373(2001) laying out wide-ranging strategies to combat terrorism and in particular the fight against the financing of terrorism.

(3) On 8 October 2001, the Council reiterated the Union's determination to attack the sources which fund terrorism, in close cooperation with the United States.

(4) On 26 February 2001, pursuant to UNSC Resolution 1333(2000), the Council adopted Common Position 2001/154/CFSP(1) which provides inter alia for the freezing of funds of Usama bin Laden and individuals and entities associated with him. Consequently, those persons, groups and entities are not covered by this Common Position.

(5) The European Union should take additional measures in order to implement UNSC Resolution 1373(2001).

(6) Member States have transmitted to the European Union the information necessary to implement some of those additional measures.

(7) Action by the Community is necessary in order to implement some of those additional measures; action by the Member States is also necessary, in particular as far as the application of forms of police and judicial cooperation in criminal matters is concerned,

HAS ADOPTED THIS COMMON POSITION:

Article 1

1. This Common Position applies in accordance with the provisions of the following Articles to persons, groups and entities involved in terrorist acts and listed in the Annex.

2. For the purposes of this Common Position, "persons, groups and entities involved in terrorist acts" shall mean:

- persons who commit, or attempt to commit, terrorist acts or who participate in, or facilitate, the commission of terrorist acts,

- groups and entities owned or controlled directly or indirectly by such persons; and persons, groups and entities acting on behalf of, or under the direction of, such persons, groups and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons, groups and entities.

3. For the purposes of this Common Position, "terrorist act" shall mean one of the following intentional acts, which, given its nature or its context, may seriously damage a country or an international organisation, as defined as an offence under national law, where committed with the aim of:

(i) seriously intimidating a population, or

(ii) unduly compelling a Government or an international organisation to perform or abstain from performing any act, or

(iii) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation:

(a) attacks upon a person's life which may cause death;

(b) attacks upon the physical integrity of a person;

(c) kidnapping or hostage taking;

(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;

(e) seizure of aircraft, ships or other means of public or goods transport;

(f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;

(g) release of dangerous substances, or causing fires, explosions or floods the effect of which is to endanger human life;

(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;

(i) threatening to commit any of the acts listed under (a) to (h);

(j) directing a terrorist group;

(k) 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.

For the purposes of this paragraph, "terrorist group" shall mean a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist acts. "Structured group" means a group that is not randomly formed for the immediate commission of a terrorist act and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

4. The list in the Annex shall be drawn up on the basis of precise information or material in the relevant file which indicates that a decision has been taken by a competent authority in respect of the persons, groups and entities concerned, irrespective of whether it concerns 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. Persons, groups and entities identified by the Security Council of the United Nations as being related to terrorism and against whom it has ordered sanctions may be included in the list.

For the purposes of this paragraph "competent authority" shall mean a judicial authority, or, where judicial authorities have no competence in the area covered by this paragraph, an equivalent competent authority in that area.

5. The Council shall work to ensure that names of natural or legal persons, groups or entities listed in the Annex have sufficient particulars appended to permit effective identification of specific human beings, legal persons, entities or bodies, thus facilitating the exculpation of those bearing the same or similar names.

6. The names of persons and entities on the list in the Annex shall be reviewed at regular intervals and at least once every six months to ensure that there are grounds for keeping them on the list.

Article 2

The European Community, acting within the limits of the powers conferred on it by the Treaty establishing the European Community, shall order the freezing of the funds and other financial assets or economic resources of persons, groups and entities listed in the Annex.

Article 3

The European Community, acting within the limits of the powers conferred on it by the Treaty establishing the European Community, shall ensure that funds, financial assets or economic resources or financial or other related services will not be made available, directly or indirectly, for the benefit of persons, groups and entities listed in the Annex.

Article 4

Member States shall, through police and judicial cooperation in criminal matters within the framework of Title VI of the Treaty on European Union, afford each other the widest possible assistance in preventing and combating terrorist acts. To that end they shall, with respect to enquiries and proceedings conducted by their authorities in respect of any of the persons, groups and entities listed in the Annex, fully exploit, upon request, their existing powers in accordance with acts of the European Union and other international agreements, arrangements and conventions which are binding upon Member States.

Article 5

This Common Position shall take effect on the date of its adoption.

Article 6

This Common Position shall be kept under constant review.

Article 7

This Common Position shall be published in the Official Journal.

Done at Brussels, 27 December 2001.

For the Council

The President

L. Michel

(1) OJ L 57, 27.2.2001, p. 1.

ANNEX

First list of persons, groups and entities referred to in Article 1(1)

1. PERSONS

*- ABAUNZA MARTINEZ, Javier (E.T.A. Activist) born 1.1.1965 in Guernica (Biscay), identity card No 78.865.882,

*- ALBERDI URANGA, Itziar (E.T.A. Activist) born 7.10.1963 in Durango (Biscay), identity card No 78.865.693,

*- ALBISU IRIARTE, Miguel (E.T.A. Activist; Member of Gestoras Pro-amnistía) born 7.6.1961 in San Sebastián (Guipúzcoa), identity card No 15.954.596,

*- ALCALDE LINARES, Angel (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna) born 2.5.1943 in Portugalete (Vizcaya), identity card 14.390.353,

- AL-MUGHASSIL, Ahmad Ibrahim (a.k.a. ABU OMRAN; a.k.a.AL-MUGHASSIL, Ahmed Ibrahim) born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen Saudi Arabia,

- AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihsa, Saudi Arabia; citizen Saudi Arabia,

- AL YACOUB, Ibrahim Salih Mohammed, born 16.10.1996 in Tarut, Saudi Arabia; citizen Saudi Arabia,

*- ARZALLUS TAPIA, Eusebio (E.T.A. Activist) born 8.11.1957 in Regil (Guipúzcoa), identity card No 15.927.207,

- ATWA, Ali (a.k.a. BOUSLIM, Ammar Mansour; a.k.a. SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen Lebanon,

*- ELCORO AYASTUY, Paulo (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.10.1973 in Vergara (Guipúzcoa), identity card No 15.394.062,

- EL-HOORIE, Ali Saed Bin Ali (a.k.a. AL-HOURI, Ali Saed Bin Ali; a.k.a EL-HOURI, Ali Saed Bin Ali) born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen Saudi Arabia,

*- FIGAL ARRANZ, Antonio Agustín (E.T.A. Activist; Member of Kas/Ekin) born 2.12.1972 in Baracaldo (Biscay), identity card No 20.172.692,

*- GOGEASCOECHEA ARRONATEGUI, Eneko (E.T.A. Activist), born 29.4.1967 in Guernica (Biscay), identity card No 44.556.097,

*- GOIRICELAYA GONZALEZ, Cristina (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna), born 23.12.1967 in Vergara (Guipúzcoa), identity card No 16.282.556,

*- IPARRAGUIRRE GUENECHEA, Ma Soledad (E.T.A. Activist) born 25.4.1961 in Escoriaza (Navarre), identity card No 16.255.819,

- IZZ-AL-DIN, Hasan (a.k.a GARBAYA, AHMED; a.k.a. SA-ID; a.k.a. SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen Lebanon,

- MOHAMMED, Khalid Shaikh (a.k.a. ALI, Salem; a.k.a. BIN KHALID, Fahd Bin Adballah; a.k.a. HENIN, Ashraf Refaat Nabith; a.k.a. WADOOD, Khalid Adbul) born 14.4.1965 alt. 1.3.1964 in Kuwait; citizen Kuwait,

*- MORCILLO TORRES, Gracia (E.T.A. Activist; Member of Kas/Ekin) born 15.3.1967 in San Sebastián (Guipúzcoa), identity card No 72.439.052,

*- MÚGICA GOÑI, Ainhoa (E.T.A. Activist) born 27.6.1970 in San Sebastián (Guipúzcoa), identity card No 34.101.243,

- MUGHNIYAH, Imad Fa'iz (a.k.a. MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon),

*- MUÑOA ORDOZGOITI, Aloña (E.T.A. Activist; Member of Kas/Ekin) born 6.7.1976 in Segura (Guipúzcoa), identity card No 35.771.259,

*- NARVÁEZ GOÑI, Juan Jesús (E.T.A. Activist) born 23.2.1961 in Pamplona (Navarra), identity card No 15.841.101,

*- OLARRA GURIDI, Juan Antonio (E.T.A. Activist) born 11.9.1967 in San Sebastián (Guipúzcoa), identity card No 34.084.504,

*- ORBE SEVILLANO, Zigor (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.9.1975 in Basauri (Biscay), identity card No 45.622.851,

*- OTEGUI UNANUE, Mikel (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 8.10.1972 in Itsasondo (Guipúzcoa), identity card No 44.132.976,

*- PEREZ ARAMBURU, Jon Iñaki (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 18.9.1964 in San Sebastián (Guipúzcoa), identity card No 15.976.521,

*- SAEZ DE EGUILAZ MURGUIONDO, Carlos (E.T.A. Activist; Member of Kas/Ekin) born 9.12.1963 in San Sebastián (Guipúzcoa), identity card No 15.962.687,

*- URANGA ARTOLA, Kemen (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna) born 25.5.1969 in Ondarroa (Biscay), identity card No 30.627.290,

*- VILA MICHELENA, Fermín (E.T.A. Activist; Member of Kas/Ekin) born 12.3.1970 in Irún (Guipúzcoa), identity card No 15.254.214;

2. GROUPS AND ENTITIES

*- Continuity Irish Republican Army (CIRA)

*- Euskadi Ta Askatasuna/Tierra Vasca y Libertad/Basque Fatherland and Liberty (E.T.A.)

(The following organisations are part of the terrorist group E.T.A.: K.a.s., Xaki; Ekin, Jarrai-Haika-Segi, Gestoras pro-amnistía.)

*- Grupos de Resistencia Antifascista Primero de Octubre/Antifascist Resistance Groups First of October (G.R.A.P.O.)

- Hamas-Izz al-Din al-Qassem (terrorist wing of Hamas)

*- Loyalist Volunteer Force (LVF)

*- Orange Volunteers (OV)

- Palestinian Islamic Jihad (PIJ)

*- Real IRA

*- Red Hand Defenders (RHD)

*- Revolutionary Nuclei/Epanastatiki Pirines

*- Revolutionary Organisation 17 November/Dekati Evdomi Noemvri

*- Revolutionary Popular Struggle/Epanastatikos Laikos Agonas (ELA)

*- Ulster Defence Association/Ulster Freedom Fighters (UDA/UFF)

(1) Persons marked with an * shall be the subject of Article 4 only.