

LEGAL CONDITIONS

For inclusion of the Islamic
Revolutionary Guard
Corps (IRGC) on the
European Union

**TERROR
LIST.**



July 2024

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ISRAEL *and* INTERNATIONAL LAW

**LEGAL CONDITIONS FOR INCLUSION
OF THE ISLAMIC REVOLUTIONARY
GUARD CORPS (IRGC)
ON THE EUROPEAN UNION TERROR LIST**

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Principal authors:

Olimpia Galiberti, Alessandro Spinillo and Andrew Tucker

Consultants:

Prof. Dr. Wolfgang Bock, Prof. Afshin Ellian, Prof. Gregory Rose, Dr. Matthijs de Blois

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Bergstraat 33
3811 NG Amersfoort

www.thinc-israel.org
info@thinc.info

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EXECUTIVE SUMMARY

1. This report addresses the question whether, from a legal perspective, the Islamic Revolutionary Guard Corps (IRGC) can and should be included on the EU terror list.

IRGC AND GLOBAL TERROR

2. Iran strategically employs global terrorism to achieve its foreign policy objectives. This global terrorism agenda is planned and carried out primarily by the IRGC. The IRGC's terrorist capabilities and activities have increased over time. Notably, many of the IRGC terrorist attacks and plots are perpetrated on EU soil.
3. In recent years, European intelligence agencies noted an increasing and troubling presence of IRGC's operatives within EU member states. These operatives primarily target dissidents of the Tehran regime as well as pro-Israel and pro-Jewish entities. The IRGC has a well-documented record of employing political assassination and intimidation tactics in Europe.
4. Many, both within and outside the EU, advocate that the EU Council should urgently designate the IRGC as a whole as a terrorist organization, following the precedents set by the United States in April 2019 and, more recently, by Canada in June 2024. These two designations underscore that the IRGC's patronage of other listed entities like Hezbollah, Hamas, Palestinian Islamic Jihad, and the Taliban has helped to advance Iran's and foreign policy and interests.

THE COMMON POSITION

5. This report undertakes an inquiry into the objects and terms of the relevant EU legislation, and whether the legal and factual conditions contained therein have been satisfied. Those conditions are set out in Common Position 2001/931 and Regulation (EC) No. 2580/2001, which

are to be interpreted and applied in accordance with the jurisprudence of the European Court of Justice (ECJ).

6. It is important to recall that the Common Position and Regulation were adopted to implement the obligations of the EU Member States pursuant to UNSC Resolution 1373/2001, a binding resolution that was passed in the wake of the 9/11 terrorist attacks in the United States. This resolution requires UN Member States, inter alia, “to work together urgently to prevent and suppress terrorist acts, including through increased cooperation”, and to “take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information”.
7. Common Position 2001/931’s purpose is therefore to protect the lives and integrity of EU citizens and residents in the common area by enabling the relevant authorities of EU Member States to work together, and with relevant authorities outside the EU, to prevent and suppress acts of terror. By adopting Common Position 931/2001, the European Union has recognized the critical importance of addressing international terrorism collectively. By pooling their security resources and expertise, the EU Member States strengthen their collective ability to prevent and combat terrorist threats.
8. To this end, the Common Position entrusts the Council with responsibility for ensuring that persons, groups and entities are placed and retained on the EU terror list, where doing so will enable the Member States to prevent acts of terror from taking place. The listing mechanism established under the Common Position is thus an essential part of the legal infrastructure in Europe to prevent acts of terror. Placing a person, group or entity on the list ensures that the relevant authorities in Member States will collaborate in a wide range of measures to prevent such a person, group or entity from committing an act of terror.
9. This means that when the conditions set out in the Common Position are satisfied in relation to a person, group or entity, the Council not only is

entitled to include and maintain such a person, group or entity on the terror list, it has a *legal responsibility* to do so. Furthermore, the absence of provisions granting the Council discretion to designate a person, group or entity reinforces the view that the Council has a legal duty to act once the factual and legal requirements are satisfied.

THE CONDITIONS THAT MUST BE SATISFIED

10. There are two main conditions that must be satisfied for placing and maintaining a person, group or entity on the EU terror list:
 - a. the person, group or entity must be “involved in terrorist acts”;
and
 - b. a recent decision to investigate, prosecute or convict for an act of terror must have been made by a judicial or other competent authority in relation to such person, group or entity.
11. The High Representative for Foreign Affairs, Josep Borrell, has misled public opinion by stating that a person, group or entity can only be placed on the EU terror list if a decision is made by a judicial authority in an EU Member State. Mr. Borrell’s statement is plainly wrong. The European Court of Justice has confirmed that the Common Position allows the Council to base a decision to include a person, group or entity on the EU list on a decision by a judicial or other competent authority. It also allows EU listing when such a decision is made by an authority in a third state, provided the decision is relatively recent, and allows for judicial review.
12. Further, in anticipation of possible assertions that only non-state entities can be placed on the EU terror list, we note that Common Position 931 imposes no such constraint. Third states like the USA and Canada have designated the IRGC or parts thereof as a terror organization, despite the fact it is an instrumentality of the Iranian regime.
13. To withstand any potential request for review of a possible IRGC listing, it is crucial for the Council to provide a statement of reasons making

clear the criteria for designation have been met. The statement must spell out clearly:

- a. the evidence that the person, group or entity is “involved in terrorist acts”;
 - b. the specific terrorist act underlying the relevant decision by a competent authority;
 - c. the nature or identification of the competent authority that issues the decision; and
 - d. the type of decision that serves as a basis for the designation.
14. According to the European Court of Justice, the Council must ensure that its statement of reasons enables the relevant entity to understand the reasons for listing and to exercise its right of review. Accordingly, it is necessary for the Council to ascertain the relevant information that enables it to draft a statement showing that all the factual conditions are satisfied. It should be noted, however, that the Council is entitled to rely on the verity of decisions made by the authorities in EU Member States; it is not the task of the Council to “second-guess” the factual and legal robustness of the relevant decision.

THE FIRST CONDITION: IS THE IRGC “INVOLVED IN TERRORIST ACTS”?

15. Reflecting the broad objective of Resolution 1373 to ensure that states counter the threat of global terrorism, the Common Position casts a wide net. The words “involved in terrorist acts” include any person, group or entity that is committing, or attempting to commit, terrorist acts or who participate in, *or facilitate*, the commission of terrorist acts. It includes any person, group or entity that provides finances or any other material or immaterial support to a person, group or entity that commits an act of terror. It also includes persons, 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.

16. Global terrorism is an integral element of Iran's foreign policy. This global terrorism agenda is planned and carried out primarily by the IRGC. The IRGC's terrorist capabilities and activities have increased over time. It can be safely assumed that the IRGC is either responsible for or involved in all terrorism-related activities of the Iranian regime outside Iran.
17. There is abundant and robust evidence that the IRGC (directly through its agents and operatives, and indirectly through its proxies) has been directing, facilitating and participating in, and continues to direct, facilitate and participate in, the preparation and commission of terrorist acts within the meaning of the Common Position, both in Europe and around the world.
18. These activities pose a significant threat to world peace and security, and to security in Europe in particular. They justify concluding that the IRGC is "involved in terrorist acts" within the meaning of the Common Position.

THE SECOND CONDITION: HAS A RELEVANT DECISION BEEN MADE BY A COMPETENT AUTHORITY IN RELATION TO THE IRGC?

19. According to the jurisprudence of the European Court of Justice, a national authority qualifies as an "equivalent competent authority" if it satisfies both of the following conditions:
 - a. the authority is actually vested, in national law, with the power to adopt restrictive decisions against groups involved in terrorism (such as the power to investigate, prosecute or convict for terror acts, or to designate an entity as a terror entity); and
 - b. its decisions are open to a judicial review that covers matters both of fact and of law.
20. In order for a person, group or entity to be included in the EU list, there must be a decision to "investigate, prosecute or condemn" a person,

group or entity for the commission of a terrorist act, or an attempt to carry out or facilitate such an act. This means that a court decision is not a necessary condition for designation: even the initiation of an investigation (carried out by police or other investigative authorities, prosecutors, national designating authorities) suffices to support a designation, provided the relevant entity has the authority to adopt restrictive measures.

21. In order for inclusion on the list, there does not have to be a decision convicting for terror acts based on established criminal standard of proof; a decision to investigate based on intelligence is sufficient.
22. It is not necessary that the person, group or entity that is being listed at the EU level is the subject of the national decision. For example, a national decision concerning the commission or preparation of a terror act by an individual controlled or directed by the IRGC, or an act by such individual to facilitate or participate in a terror act planned or executed by the IRGC, would constitute a decision “in relation to the IRGC” enabling listing of the IRGC by the Council.
23. Further, it is not for the Council to verify whether the events found to have occurred in the national decisions actually took place and who is responsible for them.

THE RIGHT TO DEFENCE AND EFFECTIVE JUDICIAL PROTECTION

24. If the decision is made by an authority in a third country, the statement will also need to explain how the authority secured the right of defence and right to effective judicial protection (due process) of the designated organization. In the EU, we face a dilemma where such decisions are based on classified intelligence — which is often the case. As is well known, “classified information is the lifeblood of counterterrorism.” While Common Position 931 and COMET WP explicitly entitle the Council and COMET WP to handle and consider classified information, an initial designation of a terrorist organization can only be based on a decision by a competent authority. This is the result of the so-called two-tier system employed by the EU, which is not a sovereign state but rather

a supranational entity to which member states have delegated part of their national security powers. The Council is wholly dependent on investigations and decisions by Member States. This can be contrasted with designations of FTOs in the United States, for example, where the Secretary of State does not need to rely on any previous “decision” by competent authorities; rather he/she will typically rely on open-source information and classified information regarding the designated entity and its ongoing terror capabilities.

25. In our view, the correct approach to this dilemma is that a person, group or entity listed under the Common Position should be regarded as having been accorded sufficient procedural safeguards, pursuant to EU law, if, during judicial review proceedings, it is given full access to the unclassified portions of the designation file, while the classified information portion will be shown to it only in a manner that does not compromise national security (typically by redacted texts, summaries, or state attorneys with special clearance).
26. It is clear that the EU designation system is still subject to further developments. Pending any changes, however, the EU court system should allow the EU Council a wide scope of discretion on matters of designation of terrorist organizations since they involve EU-wide security concerns (the concept of EU-wide security is similar to national security but operates on a broader scale).

DECISIONS TAKEN BY COMPETENT AUTHORITIES IN RELATION TO THE IRGC

27. Numerous decisions have been taken by competent judicial and non-judicial authorities in relation to the IRGC within the meaning of Article 1(4) of Common Position 931. These include decisions by authorities in EU Member States and in third states: administrative decisions, court decisions, and prosecutorial decisions relating to investigating and prosecuting individuals for terrorism and terrorism-related crimes (as defined under national law) within the definition of “terrorist act” as outlined in the Common Position.

- a. Decisions concerning IRGC-related persons, groups and entities are the subject of investigations in several EU Member States, including Germany and Austria, as well as the UK. For example, German security authorities have been investigating for years reports that members of the IRGC are involved in espionage and attacks.
- b. We found several decisions made by judicial authorities (courts) in EU Member States that satisfy the terms of the Common Position. Amongst them, the most compelling decisions are the recent judicial decisions in Germany. In particular, the decision of the German Federal Court in March 2017 specifically refers to the fact that the IRGC was responsible for the planning of terror acts. The Court found that the Quds Forces, a special unit of the Iranian Revolutionary Guards, has its own intelligence department, a security service and a counterintelligence unit that operate independently of the actual intelligence service of the Revolutionary Guards and procures information abroad using their own agents.
- c. Additionally, several judicial and administrative decisions have been made in third countries (UK, USA, Argentina and Canada) that also qualify as decisions by competent authorities in relation to the IRGC under the Common Position. They are consistent and based on credible evidence.

28. All of these decisions secured interested parties the right of defence and effective judicial protection satisfying the requirements set out in Common Position 931 for precise information, effective identification and facilitation of exculpation in accordance with principles of rule of law and judicial review.

29. Our report specifically investigates the US designation of the IRGC as a foreign terrorist organization (FTO) of 15 April, 2019. We conclude that it constitutes a decision by a competent authority under the Common Position. According to Prof. Steve Zipperstein, a former US federal

prosecutor and UCLA Professor of Law, the procedural safeguards and guarantees afforded to the designated entity offer “protections [that] more than satisfy due process standards and norms”; the designation thus affords the right of judicial review required by the European Court of Justice.

30. Further, the recent (February 2024) US Department of Justice (DOJ) prosecution of IRGC individuals should serve as a solid basis for EU designation. It falls within the scope of “a decision that has been taken by a competent authority” under Article 1 (4) of Common Position 931. The criminal charge was “conspiracy to provide material support to the IRGC”, a charge which squarely fits the description of “terrorist act” of Article 1 (3) (k) of the same legal body.
31. Similarly, the Criminal Complaint brought by the US Department of Justice against an Iranian national and IRGC member (May 2022) for providing material support to a transnational plot to murder former National Security Advisor, John Bolton, on US soil, should also serve as a solid basis for EU designation, as it falls within the scope of “a decision that has been taken by competent authorities” under Article 1 (4) of Common Position 931. Furthermore, the criminal charge pursued therein squarely fits the description of “terrorist act” of Article 1 (3) (iii) (a and b) of the same legal body.
32. Further, Canada’s recent designation of the IRGC is also a decision by a competent authority under the meaning of the Common Position. The announcement of Canada’s designation follows, to a certain extent, the structure of announcement of the US designation of the IRGC in 2109. It is clear that Canada’s decision to designate the IRGC has been taken in light of recent developments in the Middle East. As is known, Iran through the IRGC attempts to destabilize the region and, by corollary, the world. The designation does not directly link the IRGC with the attack on Israel on 7 October, however it links directly the IRGC with Hamas and Palestinian Islamic Jihad (PIJ), which carried out the attack. There is no doubt that the IRGC played, at the very least, a supportive

role in that attack. Certainly, Canada's designation is yet another decision from a competent authority under the meaning of the Common Position, upon which the EU Council-COMET WP may designate the IRGC as a terrorist organization. Nobody can doubt the transparency and integrity of the Canadian designation system. From another perspective, Canada's designation is a new blow to Mr. Borrell's reluctance to list the IRGC on the EU terror list.

33. The Common Position provides that only one of the decisions referred to above is enough for inclusion of the IRGC on the EU terror list.

CONCLUSIONS CONCERNING THE IRGC

34. In light of the foregoing, we conclude that the conditions for inclusion of the IRGC on the EU terror list are satisfied. The Council is both politically and legally obliged to place the IRGC on the EU terror list.
35. For the reasons set out above, in light of the abundance of evidence that it is involved in terrorist acts, there is in our view a *legal obligation* on the Council to place the IRGC on the list.
36. A decision *not* to place the IRGC on the list would in fact be a *political* decision that not only infringes the legal obligation of the EU Member States to take all necessary action to prevent and suppress terror acts, it would conflict with the political obligation to respect the democratic will of the people of the European Union as expressed by the recent resolution of the EU Parliament calling on the Council to place the IRGC on the EU terror list.
37. Contrary to what some argue, the designation of the IRGC as a terrorist organization would have immediate, tangible and beneficial effects for the security of citizens in the EU common area, exceeding the current sanctions regimes. The designation of the IRGC itself would mean a new, strong warning or in practice a higher level of alertness about the ongoing terrorist risk posed by this organization, prompting various mechanisms to enhance exchange of information and judicial cooperation among EU members.

38. Here, Eurojust plays a crucial role as a hub for exchanging information and coordinating investigations and prosecutions. When a terrorist organization is designated, Eurojust ensures that the relevant information about the organization, its connections and activities is promptly shared among national authorities, potentially through the formation of Joint Investigation Teams (JITs) with prosecutors and investigators from different EU countries, aiming to dismantle the designated organization's networks across the common area as early as possible.
39. Likewise, for Europol, which functions as a kind of centralized EU law enforcement agency, the IRGC's designation would enhance its operational capabilities to exchange classified and intelligence-based information among member states in a concerted effort to foil new terrorist attacks and plots by the designated entity on EU soil. Of course, the designation would also facilitate the freezing of funds and restrictions of transfers for the designated entity. Latest developments in the Middle East, including the IRGC's financial and material support provided to Hamas in the years leading to the October 7th attack on Israel, reveal that the ongoing terrorist threat posed by the IRGC has become a pressing EU-wide security concern.
40. EU listing also triggers obligations on Member States under international law to take legislative and executive measures to *prevent* the IRGC from carrying out terrorist acts.
41. Finally, our report addresses the question how a proposal to list the IRGC should be initiated. Common Position 931 and the COMET WP provide that either the High Representative for Foreign Affairs and Security Policy or Member States are entitled to initiate a proposal for placing a person, group or entity on the list. However, the High Representative, who, on the delegated authority of Member States, is vested to run these matters, is in a better position to initiate the proposal, particularly when the IRGC designation may be based on decisions by competent authorities from third countries and coordination with them will be required. In fact, in our view, the High

Representative has a duty to initiate the proposal for placing the IRGC on the list, reflecting the fact that the Common Position 931 was adopted to ensure that the Member States fulfil their obligations under UNSC Resolution 1373/2001 and customary international law on counterterrorism.

INTRODUCTION

This report addresses the question of whether the Islamic Revolutionary Guard Corps (IRGC) can and should be included on the EU terror list.

This involves an inquiry into the objects and terms of Common Position 2001/931 and Regulation (EC) No. 2580/2001, which are to be interpreted and applied in accordance with the jurisprudence of the European Court of Justice (ECJ).

The question of EU listing of the IRGC as a terrorist organization is one of the more urgent and pressing objectives of the EU Common Foreign and Security Policy (CFSP). The purpose of this report is to analyse the legal requirements for listing entities under the Common Position and specifically assess whether the criteria for EU listing of the IRGC as a terrorist entity have been met.

The Common Position and Regulation were adopted to implement the obligations of the EU Member States pursuant to UNSC Resolution 1373/2001, a binding (Chapter VII) resolution that was passed in the wake of the 9/11 terrorists attacks in the United States. This resolution requires UN Member States, inter alia, “to work together urgently to prevent and suppress terrorist acts, including through increased cooperation”, and to “take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information”.

Common Position 2001/931’s purpose is to protect the lives and integrity of EU citizens and residents in the common area by enabling the relevant authorities of EU Member States to work together, and with relevant authorities outside the EU, to prevent and suppress acts of terror by persons, groups and entities that are demonstrably “involved in terror”. By adopting Common Position 931/2001, the European Union has recognized the critical importance of addressing international terrorism collectively. By pooling their security resources and expertise, the EU Member States strengthen their collective ability to prevent and combat terrorist threats.

To this end, the Common Position entrusts the Council with responsibility for ensuring that persons, groups and entities that are known to be involved in terror, and thus present a security threat, are placed and retained on the EU terror list. Listing enables the Member States to prevent terror acts from taking place. The listing mechanism established under the Common Position is thus an essential part of the legal infrastructure in Europe to prevent acts of terror. Placing a person, group or entity on the list ensures that the relevant authorities in Member States are able to collaborate in a wide range of measures to prevent such a person, group or entity from committing terror acts.

This means that, when the conditions set out in the Common Position are satisfied in relation to a person, group or entity, the Council is not only entitled to include and maintain such person, group or entity on the terror list, it has a *legal responsibility* to do so. Furthermore, the absence of provisions granting the Council discretion to designate reinforces the view that the Council has a legal duty to act once the factual and legal requirements are satisfied.

The EU and its Member States are obliged to contribute to the global efforts, since 9/11/2001, not only by responding to and punishing acts of terror, but by taking the necessary measures together to *prevent* acts of terror from occurring anywhere in the world.

The system established by Common Position 931 for listing entities involved in terror is a critical instrument in the international counter-terrorism architecture. It establishes a mechanism to enable the EU Member States to collaborate — together and with international counterparts — to take such measures as are necessary to prevent such entities from carrying out acts of terror anywhere in the world.

The Common Position 2001/931 contains two main conditions for placing and maintaining a person, group or entity on the EU terror list:

- the person, group or entity must be “involved in terrorist acts”; and
- a recent decision to investigate, prosecute or convict an act of terror must have been made by a judicial or other competent authority in relation to such person, group or entity.

For decades, global peace and security have been threatened by the ongoing and relentless commitment of the regime in Tehran to export its revolutionary Islamist ideology. Since its inception in 1979, the regime has carried out violence and terror activities around the world. As is well known, the regime's primary instrument for achieving these objectives is the IRGC.

The imperative to include the entire IRGC entity on the European list is underscored by growing evidence collected by European and other intelligence agencies of IRGC responsibility for preparing and implementing orchestrated attacks on European soil targeting primarily Jewish and Israeli persons and objects, as well as opponents of the Tehran's regime. Many of these incidents have prompted the initiation of formal investigations, subsequent prosecutions, and in some cases resulting in convictions of individuals for criminal terror activities under national law.

Over the years, a wave of international sanctions has been passed by the United Nations (UN)¹, the United States² and the European Union (EU)³, targeting IRGC commanders and affiliated companies for their role in Iran's ballistic missile and nuclear programs and IRGC commanders for human right's violations.

However, there have been few measures directed at preventing Iran's sophisticated global program of terror activities as such, and designating the IRGC itself as a terror organization in the EU has proved a bridge too far.

¹ The UN Security Council has passed six resolutions against Iran to date – 1696, 1737, 1747, 1803, 1835, and 1929. Of these, four (1737, 1747, 1803, and 1929) contain sanctions targeting proliferating entities, including IRGC individuals and entities.

² White House Executive Order on Iran's Human Rights Abuses, September 29, 2010. [https://obamawhitehouse.archives.gov/the-press-office/2010/09/29/executive-order-13553-designating-iranian-officials-responsible-or-compl#:~:text=September%2029%2C%202010,Executive%20Order%2013553%2D%2D%20Designating%20Iranian%20Officials%20Responsible%20for,in%20Serious%20Human%20Rights%20Abuses&text=\(C\)%20to%20be%20owned%20or,blocked%20pursuant%20to%20this%20order](https://obamawhitehouse.archives.gov/the-press-office/2010/09/29/executive-order-13553-designating-iranian-officials-responsible-or-compl#:~:text=September%2029%2C%202010,Executive%20Order%2013553%2D%2D%20Designating%20Iranian%20Officials%20Responsible%20for,in%20Serious%20Human%20Rights%20Abuses&text=(C)%20to%20be%20owned%20or,blocked%20pursuant%20to%20this%20order.). See also: www.treasury.gov/resource-center/sanctions/Documents/13553.pdf

³<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:100:0051:0057:EN:PDF> and <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:116:0001:0001:EN:PDF>

Recently, however, there has been a growing opinion that further measures at the EU level to restrict the terror activities of the Iranian regime are essential for safeguarding the security of European citizens.

The mere listing of individuals and entities affiliated with the IRGC is insufficient to guarantee the effective security of European citizens. There is an urgency and necessity to promptly incorporate the IRGC as a whole into the European list.

The High Representative for Foreign Affairs has stated that an entity can only be placed on the EU terror list if a decision is made by a judicial authority in an EU Member State. This study examines the verity of that assertion in light of the text of the relevant United Nations Security Council resolutions⁴, the EU Council's own Common Position⁵ and Regulations⁶, and its Fact Sheet⁷ and procedural Guidelines, as well as jurisprudence of the European Court of Justice. We have specifically investigated whether decisions have been made by judicial or other competent national authorities, within the meaning of the Common Position.

EU case law has made it clear that it is not necessary to have judicial decisions; decisions by administrative authorities can also serve as a basis for the Council to designate a terrorist organization, provided the administrative authority is vested with powers in national law to adopt restrictive decisions against groups involved in terrorism, and these decisions are open to judicial review in matters of facts and law.⁸ Likewise, the initiation of national investigations or prosecutions for terrorist activity based on credible evidence may lead to a

⁴ UNSC S/RES/1373 (2001), see Appendix II.

⁵ COUNCIL COMMON POSITION of 27 December 2001 on the application of specific measures to combat terrorism (2001/931/CFSP), see Appendix, point 2.

⁶ COUNCIL REGULATION (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, see Appendix, point III.

⁷ Council of the European Union, Factsheet, Brussels, 14 January 2015, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/138098.pdf

⁸ Judgment of the General Court 30 November 2022 in Joined cases T-316/14 RENV and T-148/19, Kurdish Workers Party (PKK) v. Council of the European Union.

designation of a terrorist organization under the Common Position, even when they do not result in conviction (Article 4 (1)). This point is important. In many cases, fortunately, terrorist plots are foiled at a very early stage of preparation or inchoate state and then it is more difficult for prosecutors to prove the criminal intent of the authors involved, especially considering the strict standard of evidence required for conviction under criminal law.

Contrary to some arguments, the designation of the IRGC as a terrorist organization would have immediate, tangible and beneficial effects for the security of citizens in the EU common area. The designation of the IRGC itself would create a new, strong warning, or in practice a higher level of alert, about the ongoing terrorist risk posed by this organization, prompting various mechanisms to enhance exchange of information and judicial cooperation among EU members. Here, Eurojust plays a crucial role as a hub for exchanging information and coordinating investigations and prosecutions.⁹ When a terrorist organization is designated, Eurojust ensures that the relevant information about the organization, its connections and activities is promptly shared among national authorities, potentially through the formation of Joint Investigation Teams (JITs) with prosecutors and investigators from different EU countries, aiming to dismantle the designated organization's networks across the common area as early as possible.

Likewise, for Europol, which functions as a kind of centralized EU law enforcement agency, the IRGC's designation would enhance its operational capabilities to exchange classified and intelligence-based information among Member States in a concerted effort to foil new terror attacks and plots by the designated entity on EU soil.¹⁰ Of course, the designation would also facilitate the freezing of funds and restrictions of transfers for the designated entity. Latest developments in the Middle East reveal that the ongoing terrorist threat posed by the IRGC has become a pressing EU-wide security concern.

⁹ Eurojust – European Union Agency for Criminal Justice Cooperation - <https://www.eurojust.europa.eu/>

¹⁰ Europol - <https://www.europol.europa.eu/>

Including the IRGC on the EU terror list would significantly contribute to the prevention and “early warnings” of the IRGC’s new terrorist acts and plots on EU soil and beyond, as mandated by said UNSC 1317/2001.

This Report is structured as follows. Part I examines the requirements and procedures for terror listing in the EU. Part II examines whether the IRGC is “involved in terror acts”. Part III examines whether decisions have been made by judicial or other competent authorities within the meaning of the Common Position.

We conclude that there is very strong evidence to support the view that the IRGC meets both of the Common Position’s criteria for inclusion in the EU terror list: it is “involved in acts of terror,” and it is the subject of relevant decisions by judicial or other competent authorities. Indeed, in the authors’ view, the responsibilities of Member States under UN Security Council Resolutions and customary international law to prevent acts of terror mean that both the High Representative and the Member States are obliged to take all necessary steps to ensure that the IRGC is placed on the EU terror list as soon as possible.

PART I

**THE REQUIREMENTS AND
PROCEDURE FOR EU
TERRORIST LISTING**

1. THE LEGAL FRAMEWORK FOR EU TERRORIST LISTING

The legal framework for placing persons, groups and entities on the EU terror list is set out in the Common Position and Regulation.

These instruments are part of the global infrastructure for countering global terror networks. In 1999, the International Convention for the Suppression of the Financing of Terrorism was adopted. Following the attacks of 9/11, the United Nations Security Council passed Resolution 1373. In order to facilitate the implementation of the obligations of UN Member States under these instruments on European territory, the European Council adopted Common Position 2001/931/CFSP (the “Common Position”). The implementation of the Common Position involved the adoption of Regulation (EC) No 2580/2001 (“the Regulation”), which is regularly updated. The Common Position and Regulation together form the legal framework at the European level for listing individuals, groups and entities involved in terror-related activities.

1.1 UNITED NATIONS SECURITY COUNCIL RESOLUTION 1373 (2001)11

Resolution 1373 “represents the first time that the Council has used its Chapter VII powers to impose universally binding obligations without temporal or geographic limitations.” This Security Council resolution is “a central component of the legal counter-terrorist architecture.”¹² This resolution was adopted under Chapter VII of the UN Charter, as a result of which it is binding on all UN Member States.

¹¹ The legal framework established by the Security Council comprises the following resolutions: 1267 (1999), 1373 (2001), 1452 (2002), 1526 (2004), 1617 (2005), 1624 (2005), 2129 (2013), 2133 (2014), 2170 (2014), 2178 (2014), 2195 (2014), 2199 (2015), 2249 (2015), 2253 (2015), 2322 (2016), 2331 (2016), 2341 (2017), 2347 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2388 (2017), 2395 (2017), 2396 (2017), 2462 (2019).

¹² See Becker, Tal, *Terrorism and the State - Rethinking the Rules of State Responsibility*, Hart Publishing (2006) p. 122-123.

The primary thrust of Resolution 1373 is that acts of terrorism are a threat to international peace and security, and that Member States must “work together urgently to *prevent and suppress* terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism” and “complement international cooperation by taking additional measures to *prevent and suppress*, in their territories through all lawful means, the financing and preparation of any acts of terrorism”.

The essential point to note here is that the resolution emphasises the obligation of states to adopt measures necessary to *prevent* acts of terrorism. States are not only to respond to terror acts; they are to take anticipatory measures to ensure that individuals and entities that are involved in terror activities are unable to commit acts of terror. This is a global problem requiring global cooperation.

The operative parts of the resolution establish an extensive set of legal duties, borrowing heavily from previous General Assembly texts and from select portions of the terrorist financing convention. Expressly invoking Chapter VII of the Charter, the Council “decides that all States shall”, inter alia, prevent and suppress the financing of terrorist acts, criminalize such financing, and freeze the funds and assets of persons engaged in terrorist activity.

In operative paragraph 2, all States are legally obliged to adopt a series of measures that merit recitation in full:

- (a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;
- (b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;
- (c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.

Operative paragraph 3 calls upon all States to cooperate in a variety of ways: enhance and accelerate information exchange and cooperation, become parties to relevant counter-terrorism conventions and protocols, ensure that refugee status procedures are not abused by terrorist operatives and that claims of political motivation are not recognized as grounds for refusing extradition.

In order to monitor the implementation of this formidable legal regime, Resolution 1373 established the Counter-Terrorism Committee (CTC), comprised of all Council members, to which Member States are called upon to submit compliance reports. Finally, the Council expressed its “determination to take all necessary steps in order to ensure the full implementation” of the resolution.

Since 2001, the Security Council has adopted more measures. In particular, in 2018, the Security Council Committee introduced an addendum to the 2015 Madrid Guiding Principles on foreign terrorist fighters (S/2018/1177). Under

Resolution 1535 (2004), the Security Council established the Counter-Terrorism Committee Executive Directorate (CTED) to assist the work of the CTC and coordinate the process of monitoring the implementation of Resolution 1373 (2001).

1.2 COMMON POSITION 2001/931/CFSP, 27 DECEMBER 2001 ON THE APPLICATION OF SPECIFIC MEASURES TO COMBAT TERRORISM

The Common Position was adopted in order to implement SC Resolution 1373. It establishes a system for creating (and maintaining) a list of entities that are “involved in terror acts” and in relation to which judicial decisions have been taken to investigate, prosecute or convict such persons or entities for preparing, carrying out or facilitating specific acts of terror.

Placing an individual or entity on the list provides the Member States with the possibility (and obligation) of taking measures to ensure that persons or entities involved in terror do not actually commit acts of terrorism.

The Common Position contains three kinds of measures:

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.

Further measures are contained in Regulation (EC) No 2580/2001, 27 December 2001, On Specific Restrictive Measures Directed Against Certain Persons and Entities with a View to Combating Terrorism:

Article 2.1

1. Except as permitted under Articles 5 and 6:

- a) all funds, other financial assets and economic resources belonging to, owned or held by, a natural or legal person, group or entity included in the list referred to in paragraph 3, shall be frozen;*
- b) no funds, other financial assets and economic resources shall be made available, directly or indirectly, to or for the benefit of, the natural or legal person, group or entity included in the list referred to in paragraph 3;*

Article 2.2

- 2. Except as permitted under Articles 5 and 6, it shall be prohibited to provide financial services to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.*

2. CRITERIA FOR INCLUSION ON THE LIST

2.1 THE CRITERIA FOR INCLUSION IN THE EU TERROR LIST ARE SET OUT IN ARTICLES 1.1 AND 1.4 OF THE COMMON POSITION

Article 1.1 provides:

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.

Article 1.4 provides:

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.

Thus, in order for a person, group or entity to be included in the list, it must satisfy two criteria: first, it must be “involved in terrorist acts” (Article 1.1), and second, a decision must have been taken, “based on serious and credible evidence or clues” by “a competent national authority in respect of the persons, groups and entities concerned, irrespective of whether it concerns the instigation of investigation or prosecution for a terrorist act, an attempt to

perpetrate, participate in or facilitate such an act... or condemnation for such deeds” (Article 1.4).

The application of these two conditions to the IRGC are the subject of Parts II and III of this report.

3. PROCEDURE FOR EU LISTING

The Council reviews the list at regular intervals and at least once every six months. In addition to this regular review, the Council can, at any time, adopt a decision on the listing or delisting of persons, groups and entities.

3.1 PROPOSAL FOR LISTING/DELISTING

The Common Position establishes a two-tier system. Persons, groups and entities that are involved in terror are to be added to the list by the Council on the basis of proposals submitted by either the High Representative or a Member State, which in turn are based on a decision by a competent authority of a Member State or a third country.

3.2 EXAMINATION BY WORKING PARTY COMET13

In order to implement this system, the Council established the Working Party on implementation of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism ("COCOP"). This entity has been renamed "Working Party on restrictive measures to combat terrorism" (hereafter referred to as the "COMET WP"). It:

- Examines and evaluates information with a view to listing and delisting.
- Makes recommendations for listings and de-listings under Common Position 2001/931/CFSP and Articles 2(2) and 3(3) and (4) of Decision (CFSP) 2016/1693 to be reflected in the necessary proposals for legal

¹³ <http://data.consilium.europa.eu/doc/document/ST-14612-2016-REV-1/en/pdf>

acts from the High Representative for Foreign Affairs and Security Policy (HR) or by a Member State which will be examined by the Council.

- Examines proposals for listings and de-listings.

3.3 WHO INITIATES THE INITIAL PROPOSALS

In the case of Common Position 2001/931/CFSP, initial proposals for listings may be made by Member States or the High Representative for Foreign Affairs and Security Policy regarding listings on the basis of decision(s) by third states' competent authorities. Initial proposals for listings should include initial draft statements of reasons and specify the decision(s) of the national competent authorities and national procedures used as a basis for the listing proposed, as well as the relevant legal framework of domestic law in relation to Common Position 2001/931/CFSP requirements.

When a listing proposal under Common Position 2001/931/CFSP is based on a decision by a competent authority of a third state, the European Union External Action Service (EEAS) or the relevant Member State will carry out a first basic scrutiny of the proposal in accordance with the criteria set out in Article 1(4) of the Common Position. The EEAS or the Member State will also gather relevant information regarding the legal and procedural safeguards, including judicial or administrative review available in that third state to ensure respect for the rights of defence of the person, group or entity concerned. The EEAS or the Member State may on this basis ask the third state for additional information deemed necessary. When applying the listing criteria to listing proposals based on a decision by a competent authority of a third state, the COMET WP will check in particular whether the proposal complies with the abovementioned fundamental principles and procedures.

Delegations will have 15 calendar days to check the material and to allow them to forward the information received to their competent national authorities. To summarise, either the High Representative for Foreign Affairs and Security Policy or Member States are entitled to initiate a proposal for designation of a terrorist organization. However, the High Representative, who is vested on the delegated authority of Member States to run these matters, is in a better position to initiate the proposal, particularly when the IRGC designation may be based

on numerous decisions by competent authorities from third countries and coordination with them will be required.

3.4 CLASSIFIED INFORMATION PROVIDED BY MEMBER STATES AND SECRET DELIBERATIONS

As discussed above, the COMET WP is explicitly entitled to consider classified information provided by Member States and incorporate it into the designation file provided for in Article 1 (4) of Common Position 931/2001.⁵⁶ The COMET WP will ensure that this classified information will be adequately preserved. This is hardly surprising since it is well known among counter-terrorism experts that “classified information is the lifeblood of counter-terrorism”. The COMET’s deliberations may be tagged as “secret”.

The COMET WP may require information and testimony from Eurojust and Europol officials, as well as intelligence analysts, including the EU Intelligence Analysis Center (EU INTCEN), security specialists, and others. These interviews should be extremely useful for the COMET WP to determine the level of ongoing terrorist threat posed by the proposed designated organization. This confirms that the Council, in designating an entity, not only relies on decisions by competent authorities but also on the current terror capabilities of that entity.

For ease of reference, we will transcribe the relevant provisions on classified information and COMET WP secret deliberations:

“Practical arrangements. The following practical arrangements will be put in place:

- meetings will be held in a secured environment so as to enable discussion up to SECRET UE, and will be held as and when necessary;
- adequate steps will be taken to ensure the confidentiality of the proceedings of the COMET WP;
- the date of the meeting, agenda and organizational details will be classified RESTREINT UE.”

As for interviews with intelligence analyst and security experts:

“The Presidency, on its own initiative or at the request of a Member State or the EEAS, may decide to invite a representative from competent bodies, institutions or agencies to attend the meeting of the COMET WP to make a presentation of background information in order to facilitate discussion on a particular subject. Such bodies, institutions or agencies include notably the following: Europol, Eurojust and the EU Intelligence Analysis Centre (EU INTCEN). Delegates from other relevant Council working parties (for example the Working Party on Visas, the Working Party on Terrorism [International Aspects] - COTER, Working Party on Terrorism - TWP, the Schengen Working Party) may be invited to attend meetings of COMET WP.”

3.5 STATEMENT OF REASONS

For each person, group and entity subject to restrictive measures under Council Regulation (EC) No 2580/2001, the Council provides a statement of reasons which is sufficiently detailed to allow those listed to understand the reasons for their listing and to allow the Courts of the European Union to exercise their power of review where a formal challenge is brought against the listing.

The statement of reasons makes clear how the criteria set out in Common Position 2001/931/CFSP have been met. It begins with a statement that the person, group or entity concerned has been involved in terrorist acts. It includes the following specific elements:

Terrorist acts committed with reference to relevant provisions of Common Position 2001/931/CFSP;

Nature or identification of the competent authority which took a decision in respect of the person, group or entity concerned;

Type of decision taken, with reference to the relevant provisions of Common Position 2001/931/CFSP.

The statement of reasons will make clear how the criteria provided for in the underlying legal act (Common Position 2001/931/CFSP or Decision (CFSP) 2016/1693) have been met.

The draft statement of reasons will be prepared by the proposing Member State or the EEAS. Each statement of reasons will then be discussed by the COMET WP on a case-by-case basis. The statement of reasons will then be examined by the Foreign Relations Counsellors Working Party (RELEX) and endorsed by COREPER with a view to its adoption by the Council. After adoption by the Council, the statement of reasons will be kept on the Council's file with the possibility for the listed person, group, undertaking or entity concerned or his/her/its legal representatives to have access to it.

With regard to listings under Common Position 2001/931/CFSP, the statement of reasons will specify elements in relation to the national decision taken with reference to Article 1(4) of Common Position 2001/931/CFSP, including the information on the national authority/authorities which took the decision, the nature of the decision and the facts to which it relates, the applicable national definition of terrorism, the national decision-making procedures leading to the decision, as well as the review process attached to it, and the Council's assessment of how the alleged acts relate to the definition of terrorist acts in Article 1(3) of the Common Position.

3.6 APPROVAL BY THE COUNCIL

The Council adopts the changes to the list, which are published in the Official Journal. For each person, group and entity subject to the restrictive measures under Council regulation 2580/2001 (freezing of funds and financial assets), the Council also provides a statement of reasons, making clear how the criteria for listing have been met.

3.7 NOTIFICATION

After a listing decision has been taken by the Council, each person, group and entity subject to restrictive measures under Council regulation 2580/2001 is informed thereof either by a letter of notification, where possible, or by publication of a notice in the Official Journal.

PART II

IS THE IRGC

“INVOLVED IN TERRORIST

ACTS”?

4. “PERSONS, GROUPS OR ENTITIES INVOLVED IN TERRORIST ACTS”

This Part examines the first condition laid down in the Common Position: the person, group or entity concerned must be “involved in terrorist acts”. This chapter examines the meaning of this condition, and chapters 5 and 6 examine whether the IRGC satisfies this condition.

Reflecting the broad objective of Resolution 1373 to counter the threat of global terrorism, the terminology of Article 1.1 of the Common Position (“persons, groups and entities involved in terrorist acts”) indicates that the Council intends to cast a wide net. The listing mechanism brings within its scope of operation all persons, groups and entities that contribute, *directly or indirectly*, to the preparation or commission (or attempted commission) of a terrorist act. Article 1.2 provides: “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, and 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.

First, the words “involved in terrorist acts” includes any person, group or entity that is committing, or attempting to commit, terrorist acts or who participate in, *or facilitate*, the commission of terrorist acts (emphasis added). This would include any entity that provides finances or any other material or immaterial support to a person or entity that commits an act of terror.

Second, the type of person or entity covered by the Common Position includes “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” (emphasis added).

4.1 “TERRORIST ACTS”

Article 1.3 provides that 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 organization, where committed with the aim of:

- (i) seriously intimidating a population, or
- (ii) unduly compelling a government or an international organization 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 organization:
 - (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 supplying information or material resources, or funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the group.

4.2 SOURCES OF EVIDENCE

In order to determine whether the IRGC is involved in terrorist acts, the Council may rely not only on decisions by competent national authorities, but may also take account of other sources of information, including open-source information, classified information, intelligence assessments, and testimonies of experts, which are essential to assess the IRGC's ongoing terrorist capabilities and threats. These information channels should be incorporated into the designation file and duly assessed, as outlined in Article 1 (4) of the Common Position and its subsequent Working Party on Restrictive Measures to Combat Terrorism issued in 2016 (COMET WP).

4.3 CONCLUSION

The Common Position casts a wide net. The purpose is to enable the EU to list any person, group or entity in any way responsible for terrorist acts, anywhere in the world.

First, it includes not only persons, groups and entities that commit or participate in the commission of terrorist acts but also groups and entities that, directly or indirectly, *facilitate* the commission of terrorist acts.

Second, the definitions in the Common Position do not specify where the acts of terror take place. The Common Position is intended to ensure European listing of persons, groups and entities involved in acts of terror *anywhere in the world* – not just in Europe. This is indicative of the fact that the Common Position is part of the legal infrastructure implemented in order to combat the global threat of terror identified in SC Resolution 1373.

5. IRGC INVOLVEMENT IN “TERRORIST ACTS”

In order to determine whether the IRGC is involved in “terrorist acts” within the meaning of the Common Position 931, the Council must consider both the IRGC’s historical involvement in terror as well as current terror-related activities and capabilities. It is necessary to understand what the IRGC is, its origins, and its position within the Iranian regime.

5.1 THE REVOLUTIONARY REGIME IN TEHRAN

The Iranian Revolution, also known as the Islamic Revolution, resulted in the overthrow of the Pahlavi dynasty in February 1979. The revolutionaries replaced the existing monarchy with an Islamic republic. Ayatollah Ruhollah Khomeini assumed the role of the new Supreme Leader of Iran. The IRGC was founded shortly thereafter in May 1979.

Since its inception, the Islamic Republic has been marked by severe human rights violations. Individuals who do not align with the revolution’s strict political and religious ideologies face severe restrictions on their rights to freedom of belief, expression, association, and assembly. Ethnic and religious minorities endure widespread discrimination. Women face discrimination both in law and in practice.

The regime has frequently used arbitrary detentions and mass killings to suppress dissent. In 1988, acting on the orders of Ayatollah Khomeini, Iranian authorities summarily and extrajudicially executed thousands of political prisoners across the country. The exact number of executions remains uncertain but estimates range from 2,800 to 5,000 in at least thirty-two cities. These executions are widely documented and are considered crimes against humanity.¹⁴ Religious minorities, including Christians and Sufis, face

¹⁴ Human Rights Watch (HRW), June 2, 2022. Iran’s 1988 Mass Executions | Evidence & Legal Analysis of “Crimes Against Humanity” (hrw.org).

harassment and intimidation. Often, regime authorities fabricate false charges against them such as “acting against national security”.¹⁵

In September 2022, an episode representative of such tyrannical repression took place in response to the popular uprising following the death of Mahsa (Zhina) Amini, a young woman detained by Iran’s morality policy for not wearing the mandatory veil. The regime reacted with brutal and ruthless force to cancel the protests across the entire country. The regime unlawfully killed hundreds of protesters, including children, who were peacefully advocating for change and freedom. The matter made headlines in the international media for many days.¹⁶

From the outset, the regime has blatantly violated international law. In November 1979, a group of Islamic students, aligned with the revolutionary forces, stormed the United States embassy in Tehran. Fifty-three American diplomats and citizens were held hostages for 444 days. Their release came only after intense diplomatic negotiations and international pressure. The United States took the matter to the International Court of Justice (ICJ) which issued a ruling on the merits before the eventual release of the hostages. The court held that (1) “Iran has violated and is still violating obligations owned by it to the United States” and (2) “these obligations engage Iran’s responsibility”.¹⁷

Iran is among the very few states that has not signed the UN Convention for the Suppression of the Financing of Terrorism.¹⁸ This is not a simple oversight, but instead another attempt to elude international state liability for its policies of exporting terrorism on a global scale.

¹⁵ “Right Violations Against Christians in Iran | 2024 Annual Report”. Joint report by advocacy organisations Article 18; Open Doors; Middle East Concerns; CSW. Presented to the UK Parliament on February 21, 2024. <https://articleeighteen.com/wp-content/uploads/2024/02/Annual-Report-2024.pdf>

¹⁶ <https://www.nytimes.com/2023/09/16/world/middleeast/mahsa-amini-iran-protests-hijab-profile.html>

¹⁷ ICJ Judgment of May 14, 1980 <https://www.icj-cij.org/sites/default/files/case-related/64/064-19800524-JUD-01-00-EN.pdf>

¹⁸ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-11&chapter=18&clang=_en

There are no signs that the oppressive Tehran regime will ease its restriction of freedoms towards its own citizens or will engage in any constructive effort to scale down its support of terrorism and violence abroad. On the contrary, latest developments in the Middle East have shown Iran launching a massive attack on Israel with drones and missiles, which could well lead to an all-out war with the latter. It has also become more apparent than ever that Iran's nuclear plan must be neutralized before it reaches a nuclear weapon capabilities stage. By now, the EU should recognise that Iran is a rogue state under the guise of a republic.

5.2 THE ARMY OF THE GUARDIANS OF THE ISLAMIC REVOLUTION (IRGC)

The Iranian regime's commitment to global terror and violence in the pursuit of expanding its revolutionary ideology is conducted through the Army of the Guardians of the Islamic Revolution (Sepah-e Pasdaran-e Engelab-e Eslami), more commonly known as Iran's Revolutionary Guard Corps (IRGC). In Persian, it is also known simply as the army, Sepah, or guards, Pasdaran. Established in 1979, it has been accused of suppressing dissent domestically and internationally and exporting the Iranian Revolution abroad. Emerging from the Iran–Iraq War as a formidable military force, the IRGC oversees sensitive military programs, including nuclear and ballistic missile projects. It operates as the key instrument of Iranian foreign policy, supporting proxies like Hezbollah and militias in Iraq.

The IRGC was created on 5 May 1979, following a decree by Ayatollah Khomeini, Supreme Leader of the Islamic Republic of Iran.¹⁹ The Constitution of the Islamic Republic of Iran gives the IRGC a different mission from that of the armed forces.

Indeed, the Army of the Islamic Republic of Iran is responsible for preserving the independence, territorial integrity and the Islamic Republic regime of the

¹⁹ Brookings Institution: The Iranian revolution - A timeline of events: <https://www.brookings.edu/blog/order-from-chaos/2019/01/24/the-iranian-revolution-a-timeline-of-events/>

country,²⁰ while the Islamic Revolutionary Guard Corps, which was formed in the early days of the victory of the Islamic Revolution, is maintained in the pursuit of its role in safeguarding the Revolution and its achievements. The limits of the functions and the extent of the responsibility of this corps shall be determined by law, in relation to the functions and the extent of the responsibility of the other armed forces, with emphasis on fraternal cooperation and harmony between them.²¹

The Constitution of the Islamic Republic of Iran thus distinguishes the mission assigned to the IRGC to continue the Islamic Revolution, considering ultimately that the fall of the regime of the Shah of Iran and the establishment of the regime of the Islamic Republic do not constitute the end of the Islamic Revolution.

In the same vein, the preamble of the Constitution of the Islamic Republic states that the IRGC's mission is to pursue the Islamic Revolution ideologically, beyond the borders of Iran, referring to the "*burden of the ideological mission, i.e., Jihad in the way of God and struggle in the way of expansion of the sovereignty of God's law in the world.*"²²

The IRGC has its own constitution (IRGC Constitution), which was promulgated on 7th September, 1982. In line with Article 150 of the Constitution of the Islamic Republic, Article 1 of the IRGC Constitution sets the mission of the IRGC as "*to spread the law of God, in accordance with the laws of the Islamic Republic of Iran, in order to strengthen the foundations of the Islamic Republic*

²⁰ Constitution of the Islamic Republic of Iran - Article 143.

²¹ Constitution of the Islamic Republic of Iran - Article 150.

²² Constitution of the Islamic Republic of Iran - Preamble: "The Ideological Army - In the organisation and equipment of the Country's defensive forces, attention shall be paid to faith and ideology so that they are the foundation and the rule. For this reason, the army of the Islamic Republic and the Revolutionary Guard Corps will be organized in accordance with this objective and will be responsible not only for safeguarding and protecting the borders, but also for the burden of the ideological mission, i.e. Jihad in the way of God and struggle in the way of expansion of the sovereignty of God's law in the world (them what you believers can of military power and cavalry to deter Allah's enemies and your enemies as well as other enemies unknown to you but known to Allah" (Quran VIII, 60).

through cooperation with other armed forces and through military drills and the organization of people's forces.”²³

Article 12 of the IRGC Constitution provides that the Supreme Leader of the Islamic Republic holds the position of Supreme Leader within the IRGC.²⁴ In the hierarchy, following the Supreme Leader of the Islamic Republic is the Commander in Chief of the IRGC.

Section 3, comprising articles 12 to 49 of the Constitution of the Revolutionary Guards, brings together all the provisions establishing its organization and functioning. The IRGC is thus organized around three pillars:

- The Commander-in-Chief of the Revolutionary Guards, in charge of military drills, ideological training, propaganda and publications, supplies, logistics, intelligence, planning of operations, and issues related to the Basij. To achieve this, it has a dedicated unit for each of these missions.²⁶
- The Ministry of the Revolutionary Guards, in charge of administrative, financial, legal, parliamentary management and supply. The Constitution of the Revolutionary Guards also sets out the responsibilities related to each of these missions.²⁷
- The Supreme Council of the Revolutionary Guards, in charge of coordination between the command and the ministries, to determine strategies, plans and programmes. Its resolutions are brought to the attention of the Supreme Leader of the Islamic Republic or his representative, who have the right of veto.²⁸

Article 28 of the IRGC Constitution outlines the operating mode for all the institutions and units formed. It ensures a vertical transmission of information

²³ Constitution of the Revolutionary Guards - Article 1 / “Article 1: The Revolutionary Guards is an institution under the Leader’s supreme command. Its goal is to protect Iran's Islamic Revolution and its achievements and persistently struggle to achieve the divine aims, spread the rule of the law of God in accordance with the Islamic Republic of Iran's laws, and to fully strengthen the Islamic Republic's defensive foundations through cooperation with other armed forces and through the military training and organizing of popular forces.” <https://irandatportal.syr.edu/constitution-of-the-revolutionary-guards-3>

²⁴ Constitution of the Islamic Republic of Iran - Article 110.
<https://irandatportal.syr.edu/constitution-of-the-revolutionary-guards-3>

and decisions so that the Supreme Leader of the Islamic Republic and the Commander-in-Chief of the IRGC can take all decisions.²⁵ Regarding accountability, Article 29 of the IRGC Constitution provides that the Commander-in-Chief of the IRGC is only accountable to the Supreme Leader of the Islamic Republic. Article 15 of the IRGC Constitution provides that the IRGC will have its own intelligence unit. This unit, due to the nature of missions entrusted to the IRGC, plays the greatest role among Iranian intelligence agencies.

Beyond military and security roles, the IRGC has become a major economic player, influencing various sectors and contributing to the country's economy. Its wealth serves military financing, procurement efforts, and personal affluence, translating into political influence. The IRGC's increasing power in Iran's political system has garnered international attention, emphasizing its multifaceted role in terrorism, economic influence, and illegal technology procurement abroad.

5.3 ACCOUNTABILITY

The Commander-in-Chief of the IRGC reports solely to the Supreme Leader of the Islamic Republic. The IRGC is autonomous and independent with respect to the other institutions of the Republic, which means it is not subject to legislative control or oversight. The IRGC authorities have absolute discretion in deciding objectives and policies, with no limits other than those imposed by the Supreme Leader. This lack of accountability has led some to describe the IRGC as a “parallel state” or “deep state”. This absence of constitutional restraints increases the risks that the IRGC's actions may violate human rights or international law.

5.4 IRGC USE OF PROXIES

Iran uses proxies to fulfil significant objectives of its foreign policies, and these proxies are employed by the IRGC. The employment of proxies by the

IRGC serves to avoid direct military confrontation and shield the Iranian state from its responsibility for international wrongs. A report issued by the Department of State in 2021 confirmed that the US designation of Iran as a state sponsor of terror in 1984 was still in force, and outlined that the Tehran’s tyrannical regime continues to provide material support to diverse terrorist groups across the region.²⁶ This report identifies Hezbollah, which operates in Syria and Lebanon, as Iran’s primary proxy terrorist group, along with the Shia militias in Iraq, the Houthis in Yemen, Syrian pro-government militias, and Afghan Shia militias — all contributing to destabilization in the Middle East and beyond.

It also speaks of a consistent financial and material support, including weapons and military training, to Hamas and other US-designated Palestinian terrorist groups such as Palestinian Islamic Jihad and the Popular Front for the Liberation of Palestine–General Command. The report stated: “these [Palestinian] groups were behind numerous deadly attacks originated in Gaza and the West Bank”.

The report confirmed the IRGC-Quds Force’s role in promoting terrorism beyond Iran’s borders: “The IRGC-QF is Iran’s primary mechanism for cultivating and supporting terrorist activity abroad”. In 2019, the Secretary of State’s designation of the IRGC-QF as a Foreign Terrorist Organization (FTO) highlighted Iran’s recurrent use of proxy groups and militias to shield itself from accountability for its international wrongs. It also emphasized that the IRGC “has the greatest role among Iran’s actors in directing and carrying out a global terrorist campaign”.

IRGC support of Palestinian terror groups Hamas and Palestinian Islamic Jihad (PIJ) dates back to the early days of the Islamic revolutionary regime in Tehran. Their strategic links strengthened with the emergence of the “Axes of Resistance” in the 1990’s and the tumultuous events of the 2000 Intifada. Despite the Iranians being predominantly Shia and the Palestinians Sunni, pragmatism prevailed and they recognised the need to unite to fight their two

²⁶ Report by the Bureau of Antiterrorism (2021): Iran - United States Department of State.

common archenemies — Zionism and the United States. In 2017, Iran facilitated a reconciliation between Syria’s Bashar al-Assad and Hamas. Since then, the IRGC’s cooperation with Hamas and the PIJ in Gaza has been reinvigorated. The consistent flow of funding, material assistance, and training from the IRGC to Hamas has been well documented. Intercepted documents, corroborated and shown by reliable media sources, revealed that Tehran’s regime has provided Hamas with over USD 220 million between 2014 and 2020.²⁷

Hamas has been listed as a terrorist organization in both the EU (reinstated in 2021) and the US (1997). Hamas, in its foundational charter, explicitly calls for the annihilation of the State of Israel by means of a long-term holy war (Jihad). Hamas has governed in Gaza since 2007, after winning legislative elections. Although these elective mandates have expired, Hamas maintains itself in power as the *de facto* authority in the area. In practice, then, Hamas has a dual role as the *de facto* government authority and terrorist group. This dual role enhances its capacity not only to threaten Israel’s security but also to destabilise the Middle East region and, by extension, the world.

The IRGC provided the funds and assistance to Hamas with knowledge that these resources would fuel terror and violence against Israel. Given the circumstances, while the IRGC might not have directly ordered and planned Hamas’s horrific attack on Israel on 7 October, its conduct, by providing those resources to Hamas, enabled, abetted, or facilitated the attack.

In a recent development, the Palestinian Authority (PA) has strongly condemned Iran’s Supreme Leader Khomeini’s remarks made on 3 June (marking the 35th anniversary of the death of Ayatollah Khomeini) praising Hamas’s attack on Israel on 7 October. The PA’s high officials accused Iran of “exploiting the Palestinian issue and causing the death of Palestinians to further their interests”. Other PA officials accused Iran of seeking to overthrow the PA in the West Bank by arming and directing Hamas and the PIJ militia there in

²⁷ The Times “Revealed: secret letters that show Iran’s £ 200 m payments to Hamas – Israel has recovered correspondence that shows the extent of Iran’s support for the militant group behind the October 7 attacks”, London, April 11, 2024. <https://www.thetimes.co.uk/article/iran-hamas-israel-payments-letters-6l6mtpnbw>

preparation for a military coup to overthrow the PA. These are new elements pointing to Iran’s involvement in Hamas’s attacks of 7 October.²⁸

5.5 DECISIONS EVIDENCING IRGC INVOLVEMENT IN GLOBAL TERROR

The IRGC’s global terrorist activities have resulted in administrative decisions and milestone court rulings made by EU Member States’ national authorities. At this stage, we find instructive to highlight two well-known criminal court rulings – one from Germany²⁹ and the other from Argentina,³⁰ both of which attributes responsibility to the IRGC for two sinister terrorist attacks perpetrated at a global scale in the early 1990’s. Specifically, we refer to the assassination of three Iranian-Kurdish dissidents in the Mykonos restaurant in Berlin in 1992, and the bombing of the Jewish community centre building (AMIA) in Buenos Aires in 1994, which resulted in 84 fatalities and hundreds injured.

These two cases, while perhaps not strictly suitable for purposes of designation according to EU case law since the terrorist acts giving rise to these decisions took place in 1992 and 1994, respectively, provide valuable context into the IRGC’s historical patterns of terror and violence. The cases epitomise the anatomy of IRGC’s practices of political assassination. The IRGC’s terror capabilities and disregard for human life have not diminished; on the contrary, they have increased over time.

²⁸ MEMRI Special Dispatch 11395 “Palestinian Authority Attacks Iranian Leader Ali Khamenei: His Speech Proves That Iran Is Behind October 7; Iran Is Willing To Sacrifice Palestinians To Promote Its Goals.
<https://www.memri.org/reports/palestinian-authority-attacks-iranian-leader-ali-khamenei-his-speech-proves-iran-behind#:~:text=A%20statement%20issued%20by%20the,children%2C%20women%20and%20elderly%20people>

²⁹ <https://iranhrdc.org/murder-at-mykonos-anatomy-of-a-political-assassination/>

³⁰ Cámara federal de Casación Penal, CFCP, Sala II Causa n° CPF 9789/2000/TO1/CFC3 “Galeano, Juan José y otros s/ Recurso de Casación.

5.6 CONCLUSION

The IRGC acts independently of all branches of the Iranian government and is accountable only to the Supreme Leader. The IRGC is behind Iran’s entire foreign terrorist programme, including providing material and financial support to proxies and other foreign terrorist organizations, and is thus “involved in acts of terror”.

6. SPECIFIC EXAMPLES OF IRGC “INVOLVEMENT IN TERRORIST ACTS” IN EUROPE AND THE WEST

There is abundant evidence that the IRGC not only supports proxies and other organizations, but it is also directly “involved in terrorist acts” within the meaning of the Common Position. For decades, the IRGC has actively participated in or facilitated the commission of acts of terror. These were carried out either directly by IRGC operatives, or through its various branches (including the IRGC Electronic Warfare, the Cyber Defence Organization IRGC-EWCD, the IRGC Intelligence Organization IRGC-IO, and the IRGC’s foreign operations branch, the Quds Force IRGC-QF) or in collaboration with other agencies of the Iranian Regime, such as the Iranian Ministry of Intelligence and Security (MOIS).³¹

In 2023, the European Parliament recognised in a resolution that “the Islamic Republic, in particular through the IRGC, engages in large-scale, sophisticated

³¹ Evidence of the connection of the two agencies:
https://www.terrorisminfo.org.il/app/uploads/2020/11/E_269_20.pdf
https://www.wikileaks.org/gifiles/docs/96/96828_insight-iran-mois-irgc-structure-and-operations-.html <http://iranprimer.usip.org/blog/2023/feb/17/explainer-how-iran%E2%80%99s-intelligence-agencies-work>

and violent transnational repression activities targeting exiled and diaspora activists, dissidents, independent journalists, and human rights defenders, including on EU soil, as well as threatening and harassing their family members in Iran; whereas the Islamic Republic, *both directly and by acting through local proxies*, has assassinated diaspora dissidents, kidnapped exiles for abduction to Iran, and plotted bomb attacks in several countries, including EU Member States”.³² The Strasbourg Parliament recognised that the plots and terrorist attacks targeting these individuals on European soil are unequivocally linked to the IRGC.

We reiterate that the Council-COMET WP, in assessing the question of whether the IRGC is involved in terrorist acts, may also consider open-source information and classified information that EU Member States and allies submit for inclusion in the designation file. Decisions by competent authorities, under the meaning of Common Position 931, by themselves might sometimes fail to fully reveal the IRGC’s previous patterns of terror and its actual terror capabilities.

Here are some examples of terrorist acts (and attempted terrorist acts) which have been carried out or facilitated by the IRGC or persons or entities connected with the IRGC, as well as intelligence reports from national authorities containing compelling evidence that the IRGC is “involved in terrorist acts” within the meaning of the Common Position:

- i. **2024, April, Germany:** Three agents representing the Iranian regime were found in Germany, conducting surveillance on Jewish and Iranian dissident targets, with alleged plans for future assassinations. The four suspected Arab terrorists were hired by the Iranian secret service.³³
- ii. **2024, March, United Kingdom:** Pouria Zeraati, a journalist at Iran International, was stabbed by a group of unidentified individuals as he

³² European Parliament resolution of 19 January 2023 on the EU response to the protests and executions in Iran (2023/2511(RSP)), https://www.europarl.europa.eu/doceo/document/TA-9-2023-0016_EN.html

³³ https://m.focus.de/panorama/welt/mutmasslicher-attentaeter-des-iran-als-abdelkarim-s-haeuser-in-muenchen-auskundschaftet-kommt-der-befehl-zum-toeten_id_259896846.html

exited his residence in London. The plot was commissioned and signed off by Mohammad Reza Ansari, the IRGC commander in charge of assassinations outside Iran.³⁴

- iii. **2023, December, United Kingdom:** Investigations revealed a plot to murder UK-based journalists of Iran International in London and the involvement of the IRGC (Islamic Revolutionary Guard Corps).³⁵
- iv. **2023, December, Cyprus:** Two Iranians detained in Cyprus were questioned for allegedly planning attacks on Israeli citizens. The Kathimerini Cyprus newspaper reported that the suspects, political refugees, had ties to an individual linked to the Iranian Revolutionary Guard.³⁶
- v. **2023, June, Germany:** The 2022 annual Constitutional Protection Report of Germany’s Ministry of Interior underscored the IRGC’s continued focus on the Jewish community, Israelis, and Iranian dissidents within Germany. It cautioned that Iranian intelligence services may resort to violence, including lethal measures, to advance their objectives. According to the report: “Since 2019, Iranian intelligence services have repeatedly carried out elaborate, complex and professionally executed international abductions of high-ranking targets from the opposition spectrum. In some cases, these foreign operations are preceded by many years of research activities. People living in Germany can also fall victim to such operations by Iranian agencies, especially when traveling to countries bordering Iran. The potential threat has increased in recent years and remained at a high level during the reporting period. Therefore, exposed individuals and groups in

³⁴ <https://www.iranintl.com/en/202403293508#>; <https://cpj.org/2024/04/exiled-iranian-journalist-pouria-zeraati-stabbed-in-london/>

³⁵ <https://www.itv.com/news/2023-12-20/iran-spy-plot-to-kill-two-news-presenters-in-london-uncovered-by-double-agent>; <https://www.itv.com/news/2024-01-29/iranian-officials-sanctioned-after-itv-news-reveals-plot-to-kill-uk-journalists>; <https://www.itv.com/news/2023-12-20/iran-spy-plot-to-kill-two-news-presenters-in-london-uncovered-by-double-agent>; <https://www.itv.com/watch/news/revealed-terror-plot-to-assassinate-presenters-at-iranian-tv-station-in-uk/zhsqffs>; <https://www.iranintl.com/en/202211232456>; <https://www.iranintl.com/en/202312219498>

³⁶ <https://www.iranintl.com/en/202312102200>

particular are generally at greater risk. It can be assumed that Iranian intelligence services will continue to pursue Iranian interests by all means – including acts of violence and even killings.”³⁷

- vi. **2023, March, Greece:** Two suspects, one charged in absentia in Iran, have been arrested for planning an attack on a Jewish center in Athens. Greek authorities suspect they were offered money for the act. The handler, Mohammed Mohsen Reza, is allegedly running a network of Pakistani nationals, and is linked to plots targeting IRGC sites globally.³⁸
- vii. **2023, February, United Kingdom:** Assistant Commissioner Specialist Operations Metropolitan Police Service Matt Jukes stated that “Our overall workload in investigating threats from foreign states has quadrupled over the past two years [...] Officers from counter-terrorism policing alongside local officers and other specialists from the Met continue to work in response to potential threats projected from Iran against a number of UK-based individuals”.³⁹
- viii. **2023, February, Germany:** Several MPs⁴⁰ noted in the Bundestag in February 2023 that German security authorities have been investigating reports for years that members of the IRGC are involved in espionage and attacks. In 2019, for example, the Federal Public Prosecutor’s Office conducted proceedings against eleven suspects who allegedly spied on Jewish or Israeli institutions. In January 2018, the Federal Criminal Police Office (BKA) ordered search measures against suspected agents said to have belonged to the Al-Quds Brigades, which, according to observers, operate abroad in connection with terror planning. The Federal Prosecutor General investigated a series of attacks on

³⁷

https://www.verfassungsschutz.de/SharedDocs/publikationen/DE/verfassungsschutzberichte/2023-06-20-verfassungsschutzbericht-2022.pdf?__blob=publicationFile&v=4

³⁸ <https://greekcitytimes.com/2023/04/05/official-pakistanis-nabbed-before-attack-on-athens-chabad-had-iran-based-handler/>

³⁹ <https://www.theguardian.com/uk-news/2023/feb/18/met-police-mi5-foil-15-iranian-plots-against-british-or-uk-based-enemies>

⁴⁰ Martina Renner, Nicole Gohlke, Gökay Akbulut, other MPs and the DIE LINKE parliamentary group.

synagogues in North Rhine-Westphalia on suspicion of espionage. An investigator was interviewed in the ARD magazine programme “Kontraste” with the words “we are talking about state terrorism”. The Minister’s answers to these questions revealed that, as of February 2023: the Federal Office for the Protection of the Constitution (BfV) had information on 160 persons with links to the Iranian Revolutionary Guards (IGRC); the Quds Force had been active in Germany for more than ten years; its extensive spying activities were directed in particular against (pro-)Israeli and (pro-)Jewish targets; and the Revolutionary Guards, the Basij militias or the Al-Quds Brigades were listed as suspects in various investigations and criminal proceedings conducted by the Joint Extremism and Counter-terrorism Centre (JCC) since 2017.

- ix. **2022, November, United Kingdom:** MI5 Director General Ken McCallum gives an annual threat update and affirmed that “Iran projects threats to the UK directly, through its aggressive intelligence services. At its sharpest this includes ambitions to kidnap or even kill British or UK-based individuals perceived as enemies of the regime. We have seen at least ten such potential threats since January alone. The Foreign Secretary made clear to the Iranian regime just last week that the UK will not tolerate intimidation or threats to life towards journalists, or any individual, living in the UK.⁴¹
- x. **2022, November, Germany:** A German Iranian was sentenced to two years and nine months in prison for planning an arson attack on a synagogue in Bochum and attempting arson. The legal steps taken included the investigation and prosecution by the Federal Prosecutor General, and the trial in the Düsseldorf Higher Regional Court, where the court followed the prosecutor’s request for conviction. The court determined that the arson plot was orchestrated by “Iranian state

⁴¹ <https://www.mi5.gov.uk/news/director-general-ken-mccallum-gives-annual-threat-update>

agencies” while German security officials linked the plot directly to the IRGC.⁴²

- xi. **2021, May, Denmark:** Danish domestic intelligence chief Finn Borch Andersen said his PET agency suspected Iranian intelligence of “planning an attack on Danish soil” against three members of the Arab Struggle Movement for the Liberation of Ahwaz. A Norwegian of Iranian origin related to Iranian Intelligence suspected of taking photos of the residence of members ASMLA, was arrested in Sweden and extradited to Denmark. In May 2021, a Norwegian-Iranian man was convicted in the Eastern High Court of Denmark of planning an assassination on an Iranian exile with ties to a separatist movement in 2018.⁴³
- xii. **2021, February, Belgium:** An Iranian diplomat in Vienna, Assadolah Assadi, was convicted of planning a July 2018 bombing plot at the annual convention of the National Council of Resistance of Iran near Paris (attended by European dignitaries and politicians from both sides of the Atlantic). Three Iranian-Belgian accomplices were sentenced for their complicity, and Assadi received a 20-year prison term for organizing the delivery of TATP explosives to the attackers. Assadi is an Iranian intelligence officer (MOIS – Iran’s Ministry of Intelligence and Security) operating under diplomatic cover.⁴⁴

⁴² Düsseldorf Higher Regional Court (OLG) AZ: III-6 StS 1/23; <https://eurojewcong.org/news/communities-news/germany/german-iranian-convicted-of-arson-attack-on-bochum-synagogue/>; <https://www.tagesschau.de/ausland/asien/iran-botschafter-urteil-100.html> ; Statements of German Minister of Foreign Affairs: <https://twitter.com/AuswaertigesAmt/status/1737181107596955856> and <https://twitter.com/AuswaertigesAmt/status/1737181110251975026> <https://www.washingtonpost.com/world/2023/03/06/iran-revolutionary-guard-attacks-germany/>

⁴³ <https://www.dw.com/en/denmark-foils-iranian-intelligence-agency-attack/a-46092945> ; <https://www.theguardian.com/world/2018/oct/30/denmark-says-foiled-iranian-plot-kill-opposition-activist> ; <https://www.france24.com/en/20181030-denmark-recalls-ambassador-iran-foiled-attack-separatist> ; <https://www.politico.eu/article/copenhagen-accuses-iran-of-planning-to-kill-opponent-on-danish-soil/>

⁴⁴ Rechtbank van eerste aanleg Antwerpen, afdeling Antwerpen Kamer AC8. Vonnis. Vonnisnummer / Griffienummer 2021; Repertoriumnummer / Europees; Datum van uitspraak: 4 februari 2021 Naam van de beklaagde(n): S.A.; Systeemnummer parket:

- xiii. **2020, October, Sweden:** A dissident living in Sweden was abducted during his stay in Turkey.⁴⁵
- xiv. **2020, February, The Netherlands:** An Iranian dissident, 64-year-old Sadegh Zarza, was stabbed in Leeuwarden by an Iranian attacker.⁴⁶
- xv. **2018, June, The Netherlands:** In response to findings from Dutch intelligence, the Dutch government took the diplomatic measure of expelling two Iranian diplomats stationed at the Iranian embassy in The Hague, on suspicion of involvement in the murder of two Dutch citizens of Iranian descent in 2015 and 2017.⁴⁷ This relates to points *xix* and *xxi*.
- xvi. **2018, March, Albania:** Albanian authorities detained two individuals for terrorism-related charges. According to the Albanian Police, “the cell belonged to the Quds Force”.⁴⁸
- xvii. **2018, January, Germany:** The Federal Public Prosecutor’s Office conducted raids on the residences of 10 suspected Iranian agents, who were allegedly affiliated with the “Quds Force,” accused of espionage activities targeting Israeli and Jewish entities throughout the country, encompassing cultural institutions, sports clubs, and representatives of Jewish life, with specific targets including an Orthodox congregation

18RF666; Rolnummer: 20A003763; Notitienuummer parket: FD/A/35/97/19/2018 ; https://www.standaard.be/cnt/dmf20230527_93164457 ; <https://www.village-justice.com/articles/tribunal-correctionnel-anvers-fevrier-2021-verdict-sans-precedent-visant,38152.html> ; <https://www.const-court.be/public/e/2022/2022-163e-info.pdf>

⁴⁵ <https://erikhjartberg.se/journalistik/brevbombsmordet-pa-gryta/> ; <https://arkivet.dn.se/tidning/1990-09-07/242/5> ; <https://erikhjartberg.se/journalistik/brevbombsmordet-polisen-fragade-aldrig-om-iran/> ; <https://erikhjartberg.se/journalistik/kalla-fall-grupp-granskar-gamla-mordfall-pa-nytt/> ; <https://erikhjartberg.se/radio/poddradio-om-brevbombsmordet-i-vasteras/>

⁴⁶ <https://www.reuters.com/article/idUSKBN23RoOC/> ; <https://twitter.com/ReutersIran/status/1274375386797944837>

⁴⁷ <https://almere-nieuws.nl/media/pdf/Kamerbrief+sancties+080120192.pdf>

⁴⁸ https://www.state.gov/wp-content/uploads/2019/05/iran_europe_hizballah.pdf ; <https://www.rferl.org/a/iranian-terrorist-plot-foiled-albanian-police/30232875.html>

situated at Berlin's Alexanderplatz and the American Jewish Committee (AJC) in Berlin.⁴⁹

- xviii. **2017, November, The Netherlands:** Ahmad Mola Neissi, leader of the Arab Struggle Movement for the Liberation of Ahwaz, was shot dead. Minister of Foreign Affairs Stef Blok said that Dutch Intelligence Service AIDV has strong indications that Iran was involved in the murder, as Neissi was linked to a group Iran calls a terrorist organization.⁵⁰
- xix. **2017, March, Germany:** The highest court of Berlin convicted a Pakistani national of spying on Israeli and Jewish targets on behalf of the IRGC Quds Force. One of the targets was Reinhold Robbe, a former German MP and former chairman of the German Israeli society.⁵¹
- xx. **2015, December, The Netherlands:** A man was injured in a shooting incident. Minister of Foreign Affairs Stef Blok said that Dutch Intelligence Service AIDV has strong indications that Iran was involved in the murder.⁵²
- xxi. **2012, July, Bulgaria:** Bulgarian authorities arrested an IRGC operative suspected of planning an attack on a synagogue in Sofia.⁵³

⁴⁹ https://www.focus.de/politik/deutschland/polizei-stuermt-wohnungen-iranischer-agenten-israelische-ziele-im-gesamten-bundesgebiet-ausgespaelt_id_8306083.html; https://www.focus.de/magazin/archiv/rubriken-al-quds-brigade-spionierte-juedische-kultureinrichtungen-und-sportvereine-in-deutschland-aus_id_8328699.html; <https://www.timesofisrael.com/iranian-spies-in-germany-targeted-israel-embassy-jewish-kindergartens-report/>; <https://www.dw.com/en/raids-across-germany-target-suspected-iranian-spies/a-42165145>; <https://taz.de/Anschlaege-auf-Synagogen-in-NRW/!5899893/>

⁵⁰ <https://almere-nieuws.nl/media/pdf/Kamerbrief+sancties+080120192.pdf> ; <https://nltimes.nl/2017/11/09/iranian-separatist-leader-killed-hague-reports> ; <https://www.reuters.com/article/idUSKBN1D923U/> ; <https://nos.nl/artikel/2202023-voor-iran-was-de-in-den-haag-doodgeschoten-nissi-een-terrorist>

⁵¹ <https://www.reuters.com/article/uk-germany-iran-idUKKBN1EY1ND/>

⁵² me. <https://almere-nieuws.nl/media/pdf/Kamerbrief+sancties+080120192.pdf> ; <https://nltimes.nl/2015/12/15/early-morning-shooting-rattles-almere-victim-critical-cond> ; https://twitter.com/kimvanschic/status/676670040045985792?ref_src=twsrc%5Etfw

⁵³ https://www.state.gov/wp-content/uploads/2019/05/iran_europe_hizballah.pdf ; <https://www.jpost.com/international/iran-conducted-surveillance-on-bulgaria-synagogue-308337>

- xxii. **1997, October, Germany:** A Court convicted a member of the “Sepah Pasdaran” (Revolutionary Guards) for having murdered Iranian-Kurdish opposition leader Sadegh Sharafkandi and his assistants at the Mykonos Restaurant in Berlin.⁵⁴
- xxiii. **1994, August, Paris:** Chapour Bakhtiar, a former Iranian prime minister and secretary-general of the Iranian National Resistance Movement, was assassinated in his Paris apartment. Iranian operatives carried out the attack, fatally stabbing Bakhtiar and his aide.⁵⁵
- xxiv. **1992, March, Argentina:** A suicide bombing at the Israeli embassy in Buenos Aires, Argentina, killed 29 civilians and injured 242 others. Most victims were Argentine civilians, with four Israelis among the dead.⁵⁶

In addition to the above we would like to discuss in more detail two sinister terrorist attacks we outlined earlier that are often cited as the epitome of the IRGC’s policies and practices of political assassination.

- xxv. **1994, July, Argentina:** This case concerns the bombing of the Jewish community center building (AMIA) in Buenos Aires, which resulted in 84 fatalities and hundreds injured.⁵⁷ The prosecutor determined that the attack was decided by the aforementioned Committee of Special Operations, in which both the chief of the IRGC (“Pasdaran”) and the chief of the Quds Force participated. The court issued international arrest warrants against these two high-ranking officials.
- xxvi. **1992, September, Berlin, the “Mykonos” case:** This case concerns the assassination of three Iranian-Kurdish dissidents in the Mykonos

⁵⁴ <https://iranhrdc.org/murder-at-mykonos-anatomy-of-a-political-assassination/> , <https://www.iranintl.com/en/202404228782> ; <https://irannewsupdate.com/news/terrorism/mykonos-assassination-in-1992-another-instance-for-iran-state-backed-terrorism/>

⁵⁵ <https://ctc.westpoint.edu/irans-deadly-diplomats/>

⁵⁶ <https://embassies.gov.il/bratislava-en/NewsAndEvents/Pages/Terrorist-attack-on-Argentinian-embassy.aspx>

⁵⁷ Cámara federal de Casación Penal, CFCP, Sala II Causa n° CPF 9789/2000/TO1/CFC3 “Galeano, Juan José y otros s/ Recurso de Casación.

restaurant in Berlin in 1992.⁵⁸ The court found that highest state levels within the Iranian regime, including IRGC members, were part of a so-called Committee of Special Operations which decided the attack. The crime was committed with the material support of an Iranian employee of the Iranian Embassy in Berlin, who was tried and convicted. Notably, the court issued an international arrest warrant against the then Minister of Intelligence of Iran for his involvement in the crime and established that the then President Ali Akbar Hashemi Rafsanjani was necessarily aware of it in advance (apparently, he was not summoned to appear to the German court as a matter of head of state immunity).

Subsequently these arrest warrants were endorsed by Interpol which, following a thorough assessment of the evidence submitted by Argentina, and despite the Iranian delegates fierce opposition, issued red notices against those officials. Both the arrest warrants and the Interpol red notices remain valid and in force to date. An Iranian diplomat in Buenos Aires contributed to provide material infrastructure for the attack. Notably, an appeal court, on April 11, 2024, determined that “The terrorist attack in Buenos Aires in 1994 was organized, financed and executed by the authorities of the Islamic Republic of Iran, under the scheme of the Islamic Jihad, and with significant intervention of the political and military organization Hezbollah”. The proceedings did not result in convictions for the Iranians involved because they never appeared to the Argentine court, and Argentina’s legal system does not support trial in absentia. These Iranians remain at large and continue to be subject to the Interpol red notices.

⁵⁸ <https://iranhrdc.org/murder-at-mykonos-anatomy-of-a-political-assassination/>

7. IS THE IRGC A “TERRORIST GROUP”?

Article 1.3 of the Common Position provides:

“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.”

In chapter 2, we discussed the IRGC’s origin, nature, missions, and highly developed structure. The IRGC largely meets the criteria of “terrorist group” under Article 1 (3) last paragraph. It comprises more than two persons, has been active from 1979 to date, and has a long (and bloody) history of committing, perpetrating, abetting, aiding and inciting terrorist acts, whether by itself or through proxies. It also provides financial and material support to other terrorist groups that have common enemies, namely Zionism and the United States. Regarding the IRGC’s structure, the United States authorities, in designating the IRGC as a foreign terrorist group (FTO) of April 15th, stated:

The IRGC is an official armed force tasked with defending Iran’s Islamic revolutionary regime. The IRGC has a ground, naval, and air force (the latter runs Iran’s missile program) that parallel the conventional Iranian military. The IRGC commands the Basij national militia that has internal security responsibilities, and the IRGC’s Quds Force (IRGC-QF) supports pro-Iranian movements and governments in the region. The IRGC owns or controls several major companies, particularly in construction and engineering.

The IRGC has its own constitution and a scrupulously elaborated hierarchy, with institutions to which precise missions are assigned, characterizes the IRGC

as a “structured association” within the meaning of article 1.3 of the Common Position. The IRGC is not an association “formed by chance to immediately commit a terrorist act and which does not necessarily have formally defined roles for its members, continuity in its composition or an elaborate structure”.

7.1 DESIGNATION OF STATES ENTITIES OR STATE INSTRUMENTALITIES

Some argue that states entities and state instrumentalities cannot be sanctioned or designated. However, the argument is meritless. Sovereign immunity does not apply to sanctions on states, states entities, or state instrumentalities. Sovereign immunity only protects from lawsuits in the courts of a foreign state. Sanctions and designations are foreign policy tools implemented by governments, not by courts. Current state practice conclusively shows that numerous unilateral and multilateral sanctions have been imposed on sovereign states, including Iran, Russia, North Korea and Syria. Moreover, the United States designated the IRGC as a foreign terrorist organization (FTO) in 2019. In fact, a rough estimate indicates that hundreds of such sanctions have been imposed on sovereign states. Finally, nothing in Common Position 931 indicates that state entities cannot be designated. Opponents to the designation of the IRGC as a terrorist organization by the EU may raise the matter, but their arguments will be futile.

PART III

**HAVE DECISIONS BEEN
MADE BY COMPETENT
AUTHORITIES IN RELATION
TO THE IRGC?**

8. DECISIONS BY JUDICIAL OR OTHER COMPETENT AUTHORITIES

8.1 DECISIONS BY COMPETENT AUTHORITIES — A TWO-TIER SYSTEM OF COOPERATION

It is clear from the case-law of the European Court of Justice interpreting the Common Position that the procedure which may culminate in listing takes place at two levels, one national, the other European.⁵⁹ In the first phase, a competent national authority must take a decision in respect of the party concerned complying with the definition in Article 1(4) of the Common Position. In the second phase, the Council, acting by unanimity, must decide to include the party concerned on the list on the basis of precise information or material in the relevant file which indicates that such a decision has been taken.⁶⁰

The Council must give reasons that “are sufficiently precise and concrete” to enable the party concerned to know the reasons why the Council took its decision and to “enable the Court to exercise its control in that regard”.⁶¹

⁵⁹ PKK v Council Case T-182/21 (14 Dec 2022). See also judgments of 14 March 2017, *A and Others*, C-158/14, EU:C:2017:202, paragraph 84, and of 16 October 2014, *LTTE v Council*, T-208/11 and T-508/11, EU:T:2014:885, paragraphs 203 and 204).

⁶⁰ See judgments of 12 December 2006, *Organisation des Modjahedines du peuple d'Iran v Council*, T-228/02, EU:T:2006:384, paragraph 117, and of 23 October 2008, *People's Mojahedin Organisation of Iran v Council*, T-256/07, EU:T:2008:461, paragraph 131.

⁶¹ Case. C-46/19 P - COUNCIL vs. PKK: 56. With regard to the 2001 Home Secretary's decision, which initially served as the basis for the listing, it is clear from these explanatory statements that the Council found that it had been adopted by a competent authority within the meaning of Article 1(4) of Common Position 2001/931, that it was subject to regular reviews by a United Kingdom government committee and that it remained in force. Accordingly, the Council stated that it had carried out the requisite examination under the case-law referred to in paragraphs 49 and 50 of this judgment and that it had concluded that the subsequent fate of that decision did not indicate any change such as that referred to in those paragraphs in this judgment. However, those reasons are sufficiently precise and concrete to enable the PKK to know the reasons why the Council based its retention on the list at issue on that decision and enable the Court of First Instance to exercise its control in that regard.

However, because the European Union itself is unable to carry out its own investigations regarding the involvement of a given person in terrorist acts, the requirement for a prior decision of a national authority aims to establish that evidence or serious and credible clues exist of the involvement of the person concerned in terrorist activities, and that this evidence (or credible clues) is regarded as reliable by the national authorities, having led them, at the very least, to adopt measures of inquiry.

This “two-tier” system of cooperation between the Council and the Member States in the fight against terrorism means that the Council must “defer as far as possible on the assessment conducted by the competent national authority”. This means that “[i]t is not for the Council to verify the actual existence or imputation of the facts relied on in the national condemnation decisions which formed the basis of an initial entry”. The fact that a decision has been made by a relevant competent authority to, at the least, adopt measures of inquiry, is thus to be regarded by the Council as sufficient proof that the decision to include a person on the list is made on a sufficiently solid factual basis.⁶²

8.2 MUST THE DECISION BE MADE BY AN AUTHORITY IN THE EU?

The notion of a “decision taken by a competent authority” does not mean it must be a decision taken by an authority in an EU Member State. It should be recalled that Common Position 2001/931/CFSP is part of a global counter-terrorism policy initiated after the attacks of 11 September 2001 and aims to implement at European level the measures taken under UN Security Council Resolution 1373 (2001) and setting out strategies for combating terrorism by all means, and in particular its financing. That Common Position 2001/931 does not require that the competent authority be located in a member state of the European Union is confirmed by case law of the European Courts. In Case C-46/19 P – COUNCIL vs PKK⁶³ the latter challenged its inclusion on the European list of terrorist organizations, denouncing the fact that the Council of the European Union relied on three national decisions:

⁶² Case C-46/19 P - COUNCIL vs. PKK Para 17.

⁶³ Judgment of the General Court 30 November 2022 in Joined cases T-316/14 RENV and T-148/19, Kurdish Workers Party (PKK) v. Council of the European Union.

- UK decision taken on March 2001 by the Secretary of the State for the Home Department on the basis of the UK Terrorism Act 2000,⁶⁴ as supplemented by a decision adopted on 14 July 2006, which came into force on 14 August 2006. In this decision, the Home Secretary, with regard to the PKK's commission of and participation in acts of terrorism, banned the PKK as an organization involved in acts of terrorism.
- US decisions are those adopted by the Government of the United States of America, with, on the one hand, the decision designating the PKK as a “*foreign terrorist organization*” under Section 219 of the US Immigration and Nationality Act⁶⁵ and, on the other hand, the decision designating the PKK as a “*specially designated global terrorist organization*” under Executive Order 13.224.⁶⁶

The order of the UK Home Secretary was given long before the UK left the EU in 2020. But the Court made clear that according to the Common Position a “competent authority” does not have to be an authority of one of the Member States. In respect of several US decisions which have also been used by the Council to substantiate its qualification of the organization as “terroristic” the Court observed:

“(...) according to now settled case-law, the term ‘competent authority’ used in Article 1(4) of Common Position 2001/931 is not limited to the authorities of Member States but may, in principle, also include the authorities of third States (...).” (par. 85)

And the Court also explained why:

“That interpretation is justified, first, in the light of the wording of Article 1(4) of Common Position 2001/931, which does not limit the concept of ‘competent authorities’ to the authorities of the Member States, and, second, in the light of the objective of that Common

⁶⁴ United Kingdom Terrorism Act 2000.

⁶⁵ United States Immigration and Nationality Act.

⁶⁶ Presidential Decree No.13 224.

Position, which was adopted in order to implement United Nations Security Council Resolution 1373 (2001), which seeks to intensify the global fight against terrorism through the systematic and close cooperation of all States (...).” (par. 86)

8.3 “JUDICIAL OR EQUIVALENT COMPETENT AUTHORITIES”

The second subparagraph of Article 1(4) of Common Position 2001/931 states that “*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.*”

According to the jurisprudence of the European Court of Justice, a national authority qualifies as an “equivalent competent authority” if it satisfies both of the following conditions:

- (i) the authority is actually vested, in national law, with the power to adopt restrictive decisions against groups involved in terrorism (such as the power to investigate, prosecute or convict for terror acts, or to designate an entity as a terror entity); and
- (ii) its decisions are open to a judicial review that covers matters both of fact and of law.

8.4 DECISION TO INVESTIGATE, PROSECUTE OR CONDEMN

In order for a person, group or entity to be included in the EU list, there must be a decision to “investigate, prosecute or condemn” a terrorist act or an attempt to carry out or facilitate a terrorist act. This means that a court decision is not a necessary condition for designation: just the initiation of an investigation (carried out by police or other investigative authorities, prosecutors, national designating authorities, or others) could suffice to support a designation. As discussed, in order for inclusion on the list, there does not have to be a conviction for terror acts based on established criminal standard of proof; a decision to investigate based on intelligence is sufficient. Common Position 2001/931 does not require the decision of the competent authority to be taken in the context of criminal proceedings *stricto sensu*.

It is not necessary for the person, group or entity that is being listed at the EU level itself to be the subject of the national decision. It is sufficient if the national decision is made “*in respect of the persons, groups and entities concerned*”. The words “in respect of”, together with the broad definitions in the Common Position of “person, group or entity” and “terror act”, mean that a group can be listed by the Council if there is a national decision concerning a terror act by any person, group or entity that facilitates the commission of a terror act by such group, or is controlled (directly or indirectly) or directed by such a group – even if the group itself is not specified in the decision. For example, a national decision concerning the commission or preparation of a terror act by an individual controlled or directed by the IRGC, or an act by such individual to facilitate or participate in a terror act planned or executed by the IRGC, would constitute a decision “in relation to the IRGC”, enabling the listing of the IRGC by the Council, even if the IRGC itself is not specifically mentioned.

Further, it is not for the Council to verify whether the events found to have occurred in the national decisions actually took place and who is responsible for them.

“Such an obligation on the Council to verify the events underpinning a national decision which has formed the basis for the initial entry on the fund-freezing lists would undoubtedly undermine the two-tier system characteristic of that common position, since the Council’s assessment of the accuracy of those events could conflict with the national authority concerned, and such a conflict would be all the more inappropriate because the Council does not necessarily have at its disposal all the facts and evidence that appear in the file of that authority (...).” (par. 37)

8.4 JUDICIAL REVIEW

According to the jurisprudence of the European Court, the Council may list a person or entity based on a decision by a competent national authority only if the decision is open to judicial review that covers matters of both law and fact (referred to as the right of defence and to judicial protection).

In the case of the designation of the PKK, the Court held that the Council failed to verify that the US decision designating the PKK as an FTO was adopted “in accordance with the rights of the defence and effective judicial protection”.⁶⁷ The Council provided the court with a brief account of the procedural safeguards adopted by the United States authorities when designating an FTO (par. 90). These safeguards include the following key elements:

Automatic review: Designations are subject to automatic review every five years by the Secretary of State.

Judicial review: The designated entity may seek judicial review of its FTO designation before the Circuit Court of Appeals for the District of Columbia.

Revocation (or delisting) option: The designated entity may also seek the revocation of its FTO designation showing evidence that circumstances under which the designation was based have substantially changed.

The court, however, expressed dissatisfaction with the Council’s account. It noted as a shortfall that US authorities do not typically notify designated entities of the grounds on which their designation was based (par. 92). The court expected a statement of reasons from the Council outlining in more detail the grounds for US designation and an explanation of how the US authorities secured adequate procedural safeguards for the designated entity. Additionally, the court also found that merely attaching the operative part of the designation, as published in the Federal Register, to the statement of reasons fell short of due process requirements (par. 94).

Interestingly, the court did not blame the US authorities for not respecting procedural safeguards; rather, it blamed the Council for inadequately explaining how the US authorities secure these safeguards for designated entities.

⁶⁷ PKK v Council Case T-182/21 (14 Dec 2022).

8.5 INCIDENTS MUST BE RELATIVELY RECENT

According to the European Court, the “distance in time” between the terrorist acts in question and the listing should not be excessive. The Court has indicated that a distance of less than five years is not excessive:

“It follows that, despite it disputing the accuracy of the threats of attacks concerned, since the applicant claims that the statements of reasons contain no evidence or arguments to substantiate those threats, these may be taken into account in the present case. It also follows that the distance in time between the most recent events taken into account (1999) and the date of the order of 2001 is approximately two years. Such a distance in time, of less than five years, is not regarded as excessive.”⁶⁸

9. RECENT DECISIONS BY COMPETENT AUTHORITIES RELATING TO THE IRGC

In recent years, several decisions have been made by judicial and other authorities, both within and outside the EU, in respect of the investigation, prosecution or conviction of the IRGC and/or its operatives, or persons or entities facilitated by them, for the preparation, commission or facilitation of terrorist acts.

This chapter describes these decisions, and analyses whether they satisfy the conditions for EU designation under the Common Position — a decision by a judicial or other competent authority, concerning the investigation, prosecution or condemnation for a recent terrorist act as defined under national law, in

⁶⁸ See *PKK v Council* Case T-182/21 at para 76-79, referring to judgment of 24 November 2021, *LTTE v Council*, T-160/19, not published, EU:T:2021:817, paragraph 208 and the case-law cited.

relation to the IRGC. In each case, as will be explained, the decision in question was subject to appropriate judicial review.

It is important to note that criminal investigations, prosecutions and convictions concerning terror acts under national law relate, by definition, to individuals. The question is whether such cases can be said to “relate to” the IRGC as required by the Common Position. In some of the cases discussed below, the decision-maker refers specifically to the IRGC. In others, the decision-maker explicitly refers to the connection between the relevant individual and “Iran” or “the Iranian regime”. In such cases, given the fact that the IRGC is the central Iranian entity responsible for the preparation and execution of terror-related activities outside Iran, it can be safely presumed that the decision relates to the IRGC even though it may not be specifically mentioned.

9.1 Recent Decisions in EU Member States

9.1.1 Germany

RECENT NON-JUDICIAL INVESTIGATIVE DECISIONS IN GERMANY

German security authorities have been investigating reports for years members of the IRGC for involvement in espionage and attacks. In 2019, for example, the Federal Public Prosecutor's Office conducted proceedings against eleven suspects who allegedly spied on Jewish or Israeli institutions. In January 2018, the Federal Criminal Police Office (BKA) ordered search measures against suspected agents said to have belonged to the Al-Quds Brigades, which, according to observers, operate abroad in connection with terror planning. The Federal Prosecutor General is currently investigating a series of attacks on synagogues in North Rhine-Westphalia on suspicion of espionage. The Federal Office for the Protection of the Constitution (BfV) has investigated more than 160 persons with links to the IGRC and determined that the Quds Force has been active in Germany for more than ten years, and its extensive spying activities are directed in particular against (pro)Israeli and (pro)Jewish targets.

The Revolutionary Guards, the Basij militias and the Al-Quds Brigades have been listed as suspects in various investigations and criminal proceedings conducted by the Joint Extremism and Counter-terrorism Centre (JCC) since 2017.

RECENT JUDICIAL DECISIONS IN GERMANY

Düsseldorf Higher Regional Court, December 2023⁶⁹

A 36-year-old German Iranian national was sentenced to two years and nine months in prison by the Düsseldorf Higher Regional Court for planning an arson attack on a synagogue in Bochum. The court found that an Iranian state agency orchestrated the attack. The defendant was convicted of arson and attempted arson by the 6th Criminal Senate (“Senaten”), in agreement with the Federal Prosecutor General. The court, considering the defendant’s anti-Semitic sentiments, considered the synagogue attack plans a conspiracy for a serious arson offence. The attempted arson at a nearby school was considered likely to induce fear within the German Jewish community due to its proximity to the targeted synagogue. According to the Court:

“148. ... excerpts from the intelligence reports for 2017, 2018, 2020 and 2022 and the Federal Government's response to the minor interpellation by some members of parliament (BT-Drs. 20/5595) dated 8 February 2023 provide evidence of extensive intelligence activities by the Islamic Republic of Iran in Germany to the detriment of (pro)Jewish or (pro)Israeli targets. The planning of an arson attack on a synagogue represents an escalation compared to the activities previously limited to spying. However, it is in line with the anti-Semitic and anti-Israeli line of the Iranian regime.

149. Findings of the Federal Office for the Protection of the Constitution in the official reports of 5 December 2022 and 6 March 2023, which

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https://www.justiz.nrw.de/nrwe/olgs/duesseldorf/j2023/6_StS_1_23_Urteil_20231219.html

could be objectified in part on the basis of the findings obtained in the present proceedings, also point to a state background.”

Although the Court does not explicitly refer to the IRGC, it is important to note that the Court took judicial notice of the answers of the Federal Government in Parliament in February 2023, in which the Minister specifically confirmed the IRGC’s responsibility for terror-related activities of the Iranian regime in Germany. It can therefore be safely concluded that this was a decision in respect of the IRGC.

German Federal Court of Justice, May 2023⁷⁰

On 16 May, 2023, in the preliminary proceedings for participation as a member of a criminal organization, the 3rd Criminal Senate (“Senaten”) of the Federal Court of Justice, in accordance with Section 304 (5) of the Code of Criminal Procedure, dismissed the defendant’s appeal against the decision of the investigating judge of the Federal Court of Justice of 15 February, 2023.

The case concerned preliminary proceedings conducted by the Federal Public Prosecutor General against the accused and numerous co-defendants on suspicion of forming a criminal organization and other criminal offences. At his request, the investigating judge ordered a search warrant of the accused’s person and two apartments on 15 February, 2023 for the purpose of seizing evidence. After the search was carried out, the accused lodged an appeal against this order and the seizure of certain specified items. He did not substantiate his appeal. The investigating judge did not uphold the appeal against the search warrant and referred the matter to the Senate (“Senaten”) for a decision. The Federal Public Prosecutor General applied to the investigating judge for confirmation of the provisional seizure. The Court found that the requirements for issuing the search warrant were met, and that there was a suspicion of a criminal offence based on concrete facts. From June 2022 at the latest, the accused joined forces with co-defendant (Y.), who had been in the Islamic Republic of Iran since the previous year, and separately prosecuted person (J.),

⁷⁰ <https://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&nr=133874&pos=0&anz=1>

to carry out attacks on synagogues and possibly other Jewish institutions in Germany. On the night of 17 to 18 November, 2022, he fired several times at the rabbi of the Old Synagogue's house (E.) with a live firearm on Y.'s behalf. The Institute for German-Jewish History at the University is located in this building, which is directly adjacent to the former place of worship. Within the group ("operational team"), Y. took on a coordinating role in cooperation with a state agency in Iran, the Quds forces of the Revolutionary Guard. At his request, in the late evening of 17 November, 2022, Y. threw a Molotov cocktail at a part of a school building whose grounds border the rear area of the synagogue there. The Court held that, from a legal point of view, the facts of which the accused is accused must, in any case, be assessed as participation in a criminal organization.

The Court noted the special significance of the offence justifying federal criminal jurisdiction:

"The special significance within the meaning of § 120 para. 2 sentence 1 GVG is generally to be assumed if the offence, taking into account the extent of the violation of legal interests that has occurred, is a crime of considerable weight that endangers the state and attacks the interests of the state as a whole in such a specific way that the intervention of the Attorney General and a judgment by a court exercising federal jurisdiction are required. The assessment of the significance of the case requires an overall assessment of the circumstances and effects of the act, taking account of its attack on the legal interests of the state as a whole. In this context, it is primarily the specific consequences of the offence for internal security, in particular the effects on the public's sense of security, that must be taken into consideration. In addition, the impairment of the image of the Federal Republic of Germany in those states that are bound to it by common values and the possible signal effect on potential copycat offenders must also be taken into account."

According to the Court:

"Measured against the legal standards outlined above, the act is of particular significance. A majority of armed attacks on buildings that

serve the practice of the Jewish faith or are at least related to it and were – presumably – initiated by a foreign state not only affect the internal security of the Federal Republic of Germany, but also its sovereignty. The Basic Law protects the free exercise of religion to a special degree. Beyond the violation of individual legal interests, the acts at issue in the proceedings are capable of spreading a climate of fear and intimidation towards members of the Jewish religious community living in Germany. They threaten to shatter the constitutional expectation of being able to practice one’s faith undisturbed in Germany and to be protected from violent interference by authorities outside the Basic Law. On the one hand, it must be taken into account that the Federal Republic of Germany attaches great importance to the protection of Jewish life in Germany and, on the other hand, that it would lead to a loss of trust at home and a loss of reputation abroad if the state were unable to effectively guarantee this protection.”

German Federal Court of Justice, March 2017⁷¹

In the criminal proceedings conducted by the Federal Public Prosecutor General at the Federal Court of Justice (*Generalbundesanwalt beim Bundesgerichtshof*) against H., who comes from Pakistan, on the accusation of secret service agent activity, the Court held in its final judgement of 27 March, 2017 that the reconnaissance activities of the convicted man, which he developed for the Quds forces, had all been aimed at identifying targets for possible attacks against Israel or Jewish organizations and their representatives in the Federal Republic of Germany, France and other European states. The Court also found that the Quds Forces, as a special unit of the Iranian Revolutionary Guards, has its own intelligence department, a security service and a counterintelligence unit that

⁷¹ This case was referred to by the German Federal Government on 8th February 2023, in response to questions posed by the MPs Martina Renner, Nicole Gohlke, Gökay Akbulut, other MPs and the DIE LINKE parliamentary group, concerning activities and criminal offences of the Islamic Revolutionary Guard in Germany. See: German Bundestag, Printed matter 20/5595, 20th electoral term.

operate independently of the intelligence service of the IRGC, and procure information abroad using their own agents.⁷²

9.1.2 Belgium

Tribunal Correctionnel d'Anvers, February 2021⁷³

In this case, Assadollah Assadi, a 49-year-old Iranian diplomat based in Vienna, was convicted and sentenced to 20 years in prison by the Antwerp court for his involvement in a foiled terrorist plot. Three accomplices, Belgo-Iranians acting under Assadi's orders, received sentences ranging from fifteen to eighteen years. The thwarted attack occurred on 30 June, 2018, during a rally organised by the exiled National Council of Resistance of Iran in Villepinte, France. The Belgian police intercepted a couple, Amir Saadouni and Nasimeh Naami, with 550 grams of the explosive TATP and a detonator hidden in their Mercedes car. The intended target was the gathering of thousands of individuals, including prominent political figures.

Assadi, who worked at the Iranian embassy in Vienna, was associated with the Iranian state agency “Department 312”, and allegedly planned the attack for a year. The investigation revealed meticulous planning, numerous travels, significant financial transactions, and meetings with accomplices. The Belgian police found explosives and money in the Mercedes of Assadi's accomplices. The trial showcased evidence that Assadi acted on behalf of high-ranking officials in the Iranian regime. The Belgian federal prosecutor stated that the Ministry of Foreign Affairs, represented by Mohammad Javad Zarif, facilitated the bomb plot by providing diplomatic cover to Assadi.

⁷² <https://ctc.westpoint.edu/wp-content/uploads/2022/02/CTC-SENTINEL-022022.pdf> ; <https://www.timesofisrael.com/pakistani-convicted-in-germany-for-staking-out-israeli-targets-for-iran/>

⁷³ https://www.standaard.be/cnt/dmf20230527_93164457 ; <https://www.village-justice.com/articles/tribunal-correctionnel-anvers-fevrier-2021-verdict-sans-precedent-visant,38152.html> ; <https://www.const-court.be/public/e/2022/2022-163e-info.pdf>

9.1.3 Denmark

Roskilde City Court, Denmark, June 26, 2020⁷⁴

A 40-year-old Norwegian Iranian was found guilty by the Danish Court of illegal intelligence activities and complicity in the attempted murder of a 50-year-old Iranian exile in Ringsted in 2018. The court stated that the Iranian intelligence service sought to kill the man, and the defendant was involved in collecting information for the planned attack between September 25 and 27, 2018. The 40-year-old had previously been sentenced to seven years in prison by the district court, and the High Court upheld the verdict. The target of the assassination plan is imprisoned in a separate case related to espionage and terrorist support. The case revolves around individuals associated with the Ahwazna Foundation, which is linked to the separatist movement ASMLA and is considered a terrorist group by the Iranian regime.

9.2 Recent EU Decisions

Council implementing regulation (EU) 2020/716 of 28 May 2020 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria⁷⁵

As Matthew Levitt has noted, the EU is able to rely on its own designation decisions targeting the IRGC for terrorism-related activities, such as the

⁷⁴ <https://domstol.dk/roskilde/aktuelt/2020/6/norsk-iransk-mand-idoemt-faengsel-i-7-aar-og-udvisning-for-spionage-og-medvirken-til-drabs-forsoeg/> ; <https://www.dw.com/en/denmark-foils-iranian-intelligence-agency-attack/a-46092945> ; <https://www.theguardian.com/world/2018/oct/30/denmark-says-foiled-iranian-plot-kill-opposition-activist> ; <https://www.france24.com/en/20181030-denmark-recalls-ambassador-iran-foiled-attack-separatist> ; <https://www.politico.eu/article/copenhagen-accuses-iran-of-planning-to-kill-opponent-on-danish-soil/>

⁷⁵ The EU Can, and Should, Designate the IRGC as a Terrorist Group, Lawfare, Levitt, February 2023, <https://www.lawfaremedia.org/article/the-eu-can-and-should-designate-the-irgc-as-a-terrorist-group>

2020 measure targeting Iran for its activities in Syria.⁷⁶ That measure included Iran’s Quds Force, which the EU defined as “a specialist arm of the IRGC”. The designation noted that the IRGC’s Quds Force helps the Syrian regime terrorize its own people. The EU has a long record of designating IRGC officials, in part to prevent terrorist financing. A 2012 EU measure⁷⁷ specifically highlighted the IRGC Quds Force as being “responsible for operations outside Iran” and as Tehran’s principal tool “for special operations and support to terrorist groups”.

9.3 Recent Decisions in the United States

ADMINISTRATIVE DESIGNATIONS

The 2019 designation as an FTO

On April 8, 2019, the United States announced the designation of the IRGC as a foreign terrorist organization (FTO).⁷⁸ The designation came into force on 15 April, 2019. This is the world’s most important precedent of designation of the IRGC itself and, we believe, should serve as a benchmark for the European Union in coordinating efforts to prevent and defeat international terrorism.

The competent authority for designation of FTOs is the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General. Before the designation is made, the Secretary of State must give notice to Congress. Congress retains full discretion to either pass or block the proposed designation. Typically, pursuant to applicable law, the Secretary of State delegates the implementation of the designation to the Bureau of

⁷⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0716&from=EN>

⁷⁷ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:088:0001:0112:EN:PDF>

⁷⁸ Designation of the Islamic Revolutionary Guard Corps - United States Department of State.

Counterterrorism (CT). There can be no doubt whatsoever that this US designation qualifies as a “decision that has been taken by a competent authority” within the meaning of Article 1(4) of Common Position 931 and should serve, by itself, as a basis for the EU designation of the IRGC.

The requirements for designating an FTO are as follows:

1. The FTO must be a foreign organization.
2. The FTO engages in terrorist activity or retains capabilities to do so; and
3. The FTO threatens the security of US nationals or the national security of the United States.

The official announcement of the designation of the IRGC itself as an FTO was made through a “Fact Sheet” published on the internet on 8 April, 2019, and has been available online since then. There the Office of the Spokesperson of the Department of State provides a reasoned statement explaining the elements justifying the designation. This factual and informative approach ensures transparency and clarity and, equally important, enabled the designated entity to request the judicial review of the administrative decision directing the designation.

The Fact Sheet states that the designation of the IRGC itself is a step forward towards exerting “maximum pressure on the Iranian regime”. The designation builds upon previous sanctions targeting Iranian and IRGC-related individuals. These circumstances challenge the view held by some in the European Union who argue that designating the IRGC itself would be redundant, given the previous sanctions on numerous Iranian and IRGC-related individuals on other matters such as proliferation and human rights violations. In this regard, the Fact Sheet clearly states:

“This new FTO designation builds upon previous sanctions, sends a clear message to the world that the Administration is committed to exerting maximum pressure on the Iranian regime, and shines a spotlight on those in the IRGC who engage in terrorist activities. It builds upon previous sanctioning of more than 900 Iran-related individuals, entities, aircraft, and vessels by this Administration for human right abuses, censorship, ballistic missile program, malign

cyber activities, support to terrorism, or associations with the Government of Iran.”

The IRGC was founded almost simultaneously with the rise of Islamic revolutionary in 1979. The Fact sheet states:

“The IRGC FTO designation highlights that Iran is an outlaw regime that uses terrorism as a key tool of statecraft and that the IRGC, part of Iran’s official military, has engaged in terrorist activity or terrorism since its inception 40 years ago.

The IRGC has been directly involved in terrorist plotting; its support for terrorism is foundational and institutional, and it has killed U.S. citizens. It is also responsible for taking hostages and wrongfully detaining numerous U.S. persons, several of whom remain in captivity in Iran today.”

The Fact Sheet underscores that the IRGC — through the Quds forces — has the greatest role among Iran’s actors in directing and carrying out a global terrorist campaign. Then it outlines more recent IRGC terrorist attacks and plots and its continued financial and material support — including weapons, transfer of technology, and training — to Palestinian terrorist groups and others in the region:

“The IRGC — most prominently through its Quds Force — has the greatest role among Iran’s actors in directing and carrying out a global terrorist campaign.

In recent years, IRGC Quds Force terrorist planning has been uncovered and disrupted in many countries, including Germany, Bosnia, Bulgaria, Kenya, Bahrain, and Turkey.

The IRGC Quds Force in 2011 plotted a brazen terrorist attack against the Saudi Ambassador to the U.S. on American soil. Fortunately, this plot was foiled.

In September 2018, a U.S. federal court found Iran and the IRGC liable for the 1996 Khobar Towers bombing which killed 19 Americans.

In 2012, IRGC Quds Force operatives were arrested in Turkey for plotting an attack and in Kenya for planning a bombing.

In January 2018, Germany uncovered ten IRGC operatives involved in a terrorist plot in Germany and convicted another IRGC operative for surveilling a German-Israeli group.

The IRGC continues to provide financial and other material support, training, technology transfer, advanced conventional weapons, guidance, or direction to a broad range of terrorist organizations, including Hizballah, Palestinian terrorist groups like Hamas and Palestinian Islamic Jihad, Kata'ib Hizballah in Iraq, al-Ashtar Brigades in Bahrain, and other terrorist groups in Syria and around the Gulf.”

The terrorist attacks, plots and material support of terrorism outlined below clearly fall within the meaning of terrorist acts as defined in Article 1 (3) of Common Position 931.

US law provides procedural safeguards to designated entities, securing an adequate standard of due process and norms (or, in the terminology used by continental lawyers and EU courts, the “right of defence and the right to effective judicial protection”). These include the following key elements:

- (1) *Judicial review*: The designated entity may seek judicial review of its FTO designation before the Circuit Court of Appeals for the District of Columbia. The judicial review will include matters of fact and law.
- (2) *Revocation (or delisting) option*: The designated entity may also seek the revocation of its FTO designation showing evidence that circumstances under which the designation was based have substantially changed.
- (3) *Automatic review*: Designations are subject to automatic review every five years by the Secretary of State.
- (4) *Notification through internet*: Since the widespread use of the internet, FTO designations are posted online and therefore accessible worldwide — just as in the case of this 2019 IRGC designation.

(5) *Notification through the Federal Register*: This is the traditional means to publicise FTO designations, it is still used but it has virtually become a mere formality following the emergence of internet.

Imminent automatic review and renewal of the 2019 IRGC designation

The Secretary of State is scheduled to automatically review the 2019 IRGC designation by the end of this year (2024). All indications strongly suggest that the designation will be renewed.⁷⁹ The Secretary of State and the Bureau's deliberations are confidential, and we cannot know beforehand what specific reasons will be given to justify this almost assured designation renewal.

Meanwhile, an authoritative open-source report by the US government, the Financial Crimes Enforcement Network (FinCEN)'s Advisory of 8 May, 2024, depicts a disquieting outlook of Iran-backed terrorist organizations across the Middle East, underscoring that the IRGC continues to play the greatest role.⁸⁰ The FinCEN Advisory reports:

“In light of intensified terrorist activity in the Middle East, FinCEN urges vigilance in identifying potential suspicious activity related to the financing of Iran-backed militias and terrorist organizations, including Hamas, the Houthis, Hizballah, Palestinian Islamic Jihad (PIJ), and Iran-aligned militia groups in Iraq and Syria ...

Iran supports its numerous terrorist partners and proxies through the Islamic Revolutionary Guard Corps (IRGC), a parallel organization to Iran's regular armed forces. In particular, the IRGC division known as the IRGC-Quds Force (IRGC-QF) is responsible for conducting covert lethal activities outside of Iran, such as supporting terrorism globally and serving as a conduit for funds, training, and weapons to Iran-aligned partners and proxies.”

⁷⁹ <https://www.iranintl.com/en/202405319330>

⁸⁰ <https://www.fincen.gov/sites/default/files/advisory/2024-05-07/FinCEN-Advisory-Iran-Backed-TF-508C.pdf>

FinCEN's categorical reporting confirms that the IRGC poses an ongoing terrorist threat on a global scale. The renewal of the IRGC designation by the end of 2024 is nearly inevitable. Given that EU courts (both the Court of Justice and the General Court) prefer recent decisions as a basis for new listings of terrorist organizations, the Council should take account of both the 2019 US designation and its imminent renewal by the Secretary of State at the end of 2024.

Some misconceptions regarding US designations of FTOs

Some argue that US designations cannot be considered as a basis for EU designations due to perceived shortcomings in meeting an adequate standard of due process or, in a continental legal terminology, "the right of defence and the right to effective judicial protection". This is an unfounded misconception. US law provides adequate procedural safeguards for designated entities.

Perhaps the confusion started during the PKK v Council case before EU courts.⁸¹ It is important to note that here the court held that the Council did not adequately explain how the US authorities secured these safeguards for the designated entity in that specific case. The court did *not* hold that the US authorities that designated the PKK as an FTO have failed to respect procedural safeguards or adequate due process standards. The court merely found that attaching the operative part of the designation, as published in the Federal Register, to the statement of reasons fell short of providing adequate safeguards to the designated entity. Additionally, the Council's renewal of the PKK designation took place in 2014, while the excerpt of the Federal Register, upon which the Council based the PKK renewal, dated back to 1997. This considerable interval may have allowed circumstances to change.

⁸¹ Judgment of the General Court. Joined cases T-316/2014 RENV and T-148/19, 30 November 2022.

The 2019 US Designation of the IRGC as an FTO complies with adequate standards of due process and norms — Memorandum by Prof. Steve Zipperstein

We have outlined above the elements that US law provides to secure that designations of FTOs comply with adequate standards of due process. In order to demonstrate that the US 2019 designation of the IRGC as an FTO specifically complies with due process, we attach herewith a memorandum produced by Prof. Steve Zipperstein (see Appendix I), a former US federal prosecutor and currently a law professor at the University of California, Los Angeles (UCLA). In this memorandum, Prof. Zipperstein analyses the protections accorded to the designated organization, the IRGC, and concludes: “[t]hese protections more than satisfy due process standards and norms”. The following is an excerpt from the memorandum:

“This conclusion is based on a variety of reasons, as explained below. The most important such reason is that the IRGC had the statutory right to seek judicial review of the FTO designation, but the IRGC failed to avail itself of this right.

Moreover, the IRGC has the statutory right to ask the State Department to revoke/delist the FTO designation. It is not known whether the IRGC has done so, but even if it has not, the State Department on its own would be required to review the designation between April-October 2024 to determine whether the designation remains appropriate, or whether circumstances have changed to the extent that the designation should be revoked/delisted.”

Prof. Zipperstein explains that the Secretary of State, in consultation with Secretary of the Treasury and the Attorney General, is authorised to designate an FTO when the Secretary finds that the three requirements, as already discussed, are met: (1) the FTO must be a foreign organization;(2) the FTO engages in terrorist activity or retains capabilities to do so; and (3) the FTO threatens the security of US nationals or the national security of the United States. If the Secretary of State decides on designation, it must provide notice to

Congress with the required factual findings supporting the FTO designation. Congress will review the proposed designation for seven days and has full discretion to block it if it so chooses. Congress, in fact, exercises a significant oversight before finalising designation.

Three consequences flow from a designation: (1) the designated organization's funds and financial assets held in banks and financial institutions will be frozen (2) alien representatives of the organization may be denied entrance to the United States (3) any United States person who knowingly provides "material support or resources" to the organization will be guilty of a criminal offence.

On 8 April, 2019, the State Department issued a "Fact Sheet" with the designation, which came into force on 15 April, 2019,⁸² when the operative part of the designation was published in the Federal Register.⁸³

The Fact Sheet is attached to Prof. Zipperstein's memorandum in Appendix I. He emphasises that: (1) the Fact Sheet provided a detailed list of the IRGC's terrorist activity across many countries and the reasons that justified its designation as an FTO; and (2) the Fact Sheet was published on the internet on 8 April, 2019, and has remained globally accessible up to the present date. On the same date, the then Secretary of State, Mike Pompeo, published a detailed statement of the IRGC designation, which was also posted on the internet and has been globally accessible up to present date.⁸⁴ In addition to this, the designation of the IRGC as an FTO made important headlines in world media in the following days.

Prof. Zipperstein then turns to analyse the different post-designation mechanisms of review.

⁸² <https://2017-2021.state.gov/designation-of-the-islamic-revolutionary-guard-corps/>

⁸³ Federal Register: In the Matter of the Designation of the Islamic Revolutionary Guard Corps (and Other Aliases) as a Foreign Terrorist Organisation.

⁸⁴ <https://eg.usembassy.gov/secretary-pompeo-announces-intent-to-designate-irgc-as-a-foreign-terrorist-organisation/>

Post-designation: Judicial Review – Right of Access to the Administrative Record

An FTO has the right to request judicial review of its designation. Prof. Zipperstein explains this judicial review mechanism as follows:

“An organization designated as a foreign terrorist organization may obtain judicial review of the Secretary's designation in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition with the court not later than 30 days after the designation is published in the Federal Register. 8 USC 1189(b)(1). This legal right to seek judicial review applies both to organizations with a presence in the United States and substantial connections to the United States, and to foreign organizations.

The court of appeals has very broad authority to overturn FTO designations. The court's review covers matters both of fact and law. The statute provides that the court “shall hold unlawful and set aside a designation the court finds to be ‘arbitrary, capricious, an abuse of discretion’; ‘contrary to constitutional right, power, privilege or immunity’; ‘in excess of statutory jurisdiction, authority or limitation’; ‘lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court’; or a designation that was not made ‘in accord[ance] with the procedures required by law’. 8 USC 1189(b)(3).”

US law, as we can observe, provides for a broad scope of judicial review that covers matters of fact and law. The organization requesting judicial review has the right to access the administrative file upon which the Secretary of State based his/her designation:

“The enlisted terrorist organization has access to the unclassified portions of the administrative file, due process does not require the disclosure of classified information, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation. 8 USC 1189(b)(2).”

Restrictions to the disclosure of classified information are naturally based on national security concerns, but classified information may still be examined in camera and weighed by the court to decide the challenge to the designation. The IRGC did not avail itself of its right to seek judicial of its designation.

Post-designation: Right to Petition Revocation/Delisting

An FTO has the right to seek the revocation of its designation. Prof. Zipperstein explains this administrative mechanism as follows:

“... the statute allows FTO’s the right to petition the State Department to revoke/delist the FTO designation based upon changed circumstances demonstrating that the facts as they existed at the time of the original designation have changed to the extent that the designation is no longer justified.

This legal right to seek revocation/delisting applies both to organizations with a presence in the United States and substantial connections to the United States, and to foreign organizations.

This legal right, separate from and in addition to the right to seek judicial review, provides significant post-designation due process protection to organizations designated as FTOs.

The State Department has revoked/delisted 20 separate designations since 1999, strong evidence of the Department’s ongoing commitment to review designations on an ongoing basis to ensure they still meet the statutory requirements, and to revoke/delist such designations when circumstances have changed to the extent that the designation should no longer continue in effect.”

Naturally, an FTO is entitled to request judicial review of the Secretary of State’s decision denying a petition of revocation/delisting.

Post-designation: Automatic Review Every Five Years

Every five years, the Secretary of State performs an automatic review of each designation made. Prof. Zipperstein explains this automatic review as follows:

“If, during any five-year period post-designation, an FTO has not availed itself of its right to file a petition with the State Department seeking revocation/delisting of the FTO designation, then the State Department must on its own undertake a review to determine whether the designation should be revoked/delisted due to changed circumstances demonstrating that the designation is no longer appropriate. 8 USC 1189 (a)(4)(C).

The State Department has revoked/delisted 20 separate designations since 1999, strong evidence of the Department’s ongoing commitment to review designations on an ongoing basis to ensure they still meet the statutory requirements, and to revoke/delist such designations when circumstances have changed to the extent that the designation should no longer continue in effect.”

Note the number of revoked designations by the Secretary of State, which implies his/her commitment to removing designated organizations that no longer pose a terrorist threat to the United States and the world. Let’s remember that an automatic review of the IRGC designation is scheduled between April and November this year, and that all indications point to an inevitable renewal of its designation as an FTO.

In our view, the Council should be persuaded that the 2019 US Designation of the IRGC largely complies with the right to defence and the right to effective judicial protection for the designated entity. We understand that in the technological era we live in, the notification through the internet of the IRGC is more than sufficient for the latter to exercise its right of judicial review secured by US law. What’s more, it is not too difficult to anticipate the practical hurdles of serving a notice of designation on the IRGC.

Procedural differences between the US and EU designation system: Towards a mutual recognition of FTO’s designation for securing world peace and security

The procedures for the designation of terrorist organizations in the United States and in the European Union differ due to their distinct nature. While the former is a sovereign state, the latter is a supranational national entity to which

Member States delegate part of their sovereign powers. The United States therefore does not need to rely on any previous “decision” by a competent authority to designate an FTO. After the reforms to COMET WP in 2016, one may wonder if the two-tier method employed by the EU has become outdated. We are of the view that the Council — working through the COMET WP and in consultation with the national intelligence agencies coordinated as a hub in Europol — has the capabilities to compile a file for designation similar to the US Secretary of State. Of course, the proposed designation by the Council would still be subject to the final approval of the Member States.

Below we will explain how US designations work in favor of national investigations and prosecutions of terrorism and terrorism-related crimes.

The United States and the European Union, as a matter of comity and a pragmatic approach to defeating global terrorism, should work together towards an understanding of automatic mutual recognition of FTO designations. The EU judicial system, in turn, should be more deferential to the Council on terror designations since they involve EU-wide security concerns. The concept of EU-wide security is similar to national security but operating on a broader scale.

The US designation of the IRGC as a Special Designated Global Terrorist (SDGT)

In addition to its designation as an FTO, on 13 October, 2017, the Office of Foreign Assets Control of the US Department of Treasury (OFAC) designated the IRGC as an SDGT pursuant to Executive Order 13224.⁸⁵ This instrument basically intends to impede the provision of finance and material support to international terrorism. In designating the IRGC as an SGDT the Treasury stated:

“The IRGC was designated today for the activities it undertakes to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, the IRGC-

⁸⁵ Treasury Designates the IRGC under Terrorism Authority and Targets IRGC and Military Supporters under Counter-Proliferation Authority | U.S. Department of the Treasury.

QF. The IRGC, which is the parent organization of the IRGC-QF, was previously designated pursuant to E.O. 13382 on October 25, 2007, in connection with its support to Iran’s ballistic missile and nuclear programs, and pursuant to E.O. 13553 on June 9, 2011 and E.O. 13606 on April 23, 2012, in connection with Iran’s human rights abuses.”

EO 13224 is important as foreign banks and financial institutions, even with no presence in the United States, which knowingly engage in transactions with SDGTs may fall under the extraterritorial reach of US law and jurisdiction.

UNITED STATES NATIONAL INVESTIGATIONS AND PROSECUTIONS

Indictment by the DOJ against IRGC officials (February 2024)

The above mentioned FinCen Advisory of 8 May, 2024 highlighted an indictment by the DOJ against IRGC officials, among others, for terrorism charges:

“In February 2024, the U.S. Department of Justice (DOJ) indicted seven defendants, including a senior IRGC-QF official and officers of a Turkish energy group, on terrorism, sanctions evasion, fraud, and money laundering charges in connection with their illicit billion-dollar network that enabled Iran to sell its oil products to government-affiliated buyers in the PRC, Russia, and Syria and to gain access to foreign currency.”

We have analysed the 65-page indictment itself, which was filed before the United States District Court Southern District of New York.⁸⁶ The charges in this indictment arise out of a long-running, global scheme by the Government of the Islamic Republic of Iran (Government of Iran) and the Islamic Revolutionary Guard Corps (IRGC) to fund the Government of Iran and the IRGC through the sale of Iranian crude oil in the black market to China and others. The charges include “conspiracy to provide material support to the IRGC” (Count 1). The IRGC, as discussed above, was designated as an FTO by the Secretary of State on April 15, 2019.

⁸⁶ <https://www.justice.gov/opa/media/1336966/dl?inline>

Three IRGC publicly identified officers were involved in the scheme: Rostam Gashemi, senior commander; Behnam Shahriyari, senior official; Mohhamad Karimian. To circumvent US sanctions on Iranian oil, they forged cargo documents, including the tankers' loading ports, to present the oil as being of Omani or Iraqi origin. They illegally moved millions of dollars' worth of wire transfers through the US banking system. The three IRGC officials had been previously designated as SDGTs by the Secretary of Treasury, which facilitated the DOJ in the prosecution of their terrorism offences.

This DOJ prosecution alone should serve as a solid basis for EU designation. It falls within the scope of "a decision that has been taken by competent authorities" under Article 1 (4) of Common Position 931. Furthermore, the criminal count outlined above squarely fits the description of "terrorist act" of Article 1 (3) (k) of the same legal body.

Criminal complaint brought by the DOJ against an Iranian national and IRGC member (May 2022)

In May 2022, the DOJ announced on its own website that they had brought a criminal complaint against an Iranian national and IRGC member attempting to provide material support to a transnational plot to murder the former National Security Advisor, John Bolton, on US soil.⁸⁷ That Iranian national, Shahram Poursafi, on behalf of the IRGC, sought to hire a professional hitman in the United States, offering a generous amount of money to murder Bolton, likely in retaliation for the 2020 death of IRGC Commander Qasem Soleimani. The unsealed criminal complaint was presented in the media by high officials of the DOJ and the FBI together, who spoke of "a brazen attempt by the IRGC to exact revenge on US soil".

The prosecutor stated that Poursafi, apparently from Iran, used a social media network, an email address, and an encrypted message application in the search for a professional hitman to carry out Bolton's assassination in Washington DC or Baltimore. He offered to pay USD 300,000 for the criminal assignment. Fortunately, the plot was foiled by the FBI. The FBI identified Poursafi as a

⁸⁷ <https://www.justice.gov/opa/pr/member-irans-islamic-revolutionary-guard-corps-irgc-charged-plot-murder-former-national>

uniformed IRGC member and published photographs of him to trace his whereabouts.⁸⁸

We have analysed the 29-page affidavit in support of the criminal complaint signed by FBI special agent, which was filed before the United District Court for the District of Columbia.⁸⁹ There the FBI special agent gave a detailed account of the investigation into the plot.

This DOJ criminal complaint, including the above-mentioned FBI special agent's affidavit, should serve as a solid basis for EU designation. They fall within the scope of "a decision that has been taken by competent authorities" under Article 1 (4) of Common Position 931. Furthermore, the criminal count outlined therein squarely fits the description of "terrorist act" of Article 1 (3) (iii) (a and b) of the same legal body.

Argentine prosecutor investigates the crew of an IRGC-linked aircraft for providing material support to terrorist activity on Argentine soil

In June 2022, an Argentine prosecutor began investigating the crew of an IRGC-linked aircraft for providing material support to terrorist activity on Argentine soil. This aircraft landed in Buenos Aires airport under unclear and irregular circumstances.⁹⁰

The aircraft was originally owned by Mahan Air, a company that was sanctioned by the US Department of the Treasury for facilitating both Iran's terrorism and proliferation of weapons of mass destruction. The aircraft was operated by a Venezuelan air company and its crew consisted of Iranian and Venezuelan nationals, many of the former with links with the IRGC.

Neighboring Paraguay, Brazil and Uruguay issued early intelligence warnings about the aircraft's flight route that were blatantly ignored by the Argentine authorities. Much has been speculated about the cargo brought to Argentina and the kind of items they intended to upload to take to Venezuela. There are three

⁸⁸ <https://www.fbi.gov/wanted/additional/shahram-poursafi/download.pdf>

⁸⁹ <https://www.dcd.uscourts.gov/sites/dcd/files/22-mj-176-AmendedComplaintWithAffidavitInSupportOfCriminalComplaint.pdf>

⁹⁰ Argentina grounds Iran-linked Venezuelan cargo plane | Reuters.

elements that are obvious however: (1) Iran and the IRGC's involvement in the heinous terrorist attack to the AMIA in Buenos Aires in 1994, as discussed above (2) Iran and the IRGC's particular interest in Argentine nuclear fuel and nuclear technology (3) Venezuela's Nicolas Maduro is Iran and the IRGC's main ally in the Western Hemisphere.

The Argentine government, at the time under the Kirchner regime, who was known for having developed a sympathy for Iran's government, observed no irregularity whatsoever with the aircraft and authorised its departure. The aircraft, however, was denied refuel by private companies operating at the airport, fearing being reached by the US sanctions pending on the aircraft. For this reason, the aircraft remained grounded in Buenos Aires.

In the meantime, an Argentine prosecutor began investigating the pilot and other crew members with inchoate offences related to “an act of preparation to provide goods or money that may be used for a terrorist activity, its financing or organization”. The prosecutor stated that Argentina has an international obligation to prosecute terrorism financing offences under Article 7 (1) of the UN Convention on the Suppression of the Financing of Terrorism.

Request by the United States authorities: the DOJ

For its part, on 12 February, 2024, the DOJ stated: “Mahan Air – known to ferry weapons and fighters for the Islamic Revolutionary Guard Corps and Hizballah – violated our export restrictions by selling this airplane to a Venezuelan cargo airline. Now, it's property of the United States government”. Argentina accepted an order of forfeiture issued by a US federal court in Florida and allowed the aircraft to depart to the United States.⁹¹

Expulsion of the crew from Argentina

The Argentine federal judge, Federico Villena, did not find enough evidence to indict any member of the aircraft's crew but ordered their expulsion from

⁹¹ [https://www.justice.gov/opa/pr/former-iranian-owned-boeing-aircraft-successfully-returned-united-states#:~:text=The%20Department%20of%20Justice%20today,Foreign%20Terrorist%20Organisation%20\(FTO\)](https://www.justice.gov/opa/pr/former-iranian-owned-boeing-aircraft-successfully-returned-united-states#:~:text=The%20Department%20of%20Justice%20today,Foreign%20Terrorist%20Organisation%20(FTO))

Argentina. Regrettably, by the complicity of the then Argentine government with Tehran, the aircraft was not thoroughly searched upon its immediate arrival in Buenos Aires, which hindered the collection of potential evidence related to terrorism-related crimes.

This incident, and the investigation opened by the Argentine prosecutor, reveals the ramifications for global terror by Iran and the IRGC. The EU Council should take seriously this recent incident and consider it when deciding whether to designate the IRGC as a terrorist organization.

9.3 Recent decisions in the United Kingdom

INVESTIGATIVE DECISIONS IN THE UK

As noted above, there have been many investigations in the UK of individuals connected with the IRGC for the planning or execution of terror-related activities. For example, most recently, in December 2023, security investigations revealed a plot to murder UK-based journalists of the “Iran International” in London and the involvement of the IRGC.⁹²

Sanctions of IRGC-related individuals in the UK for terror-related activities

Although the UK government has, thus far, decided not to place the IRGC on the UK terror list, sanctions have been imposed on IRGC-related individuals for terror-related activities, as specified under UK legislation. In 2023, the government adopted the Iran Sanctions Regulations 2023, UK Statutory

⁹² <https://www.itv.com/news/2023-12-20/iran-spy-plot-to-kill-two-news-presenters-in-london-uncovered-by-double-agent> <https://www.itv.com/news/2024-01-29/iranian-officials-sanctioned-after-itv-news-reveals-plot-to-kill-uk-journalists> ; <https://www.itv.com/news/2023-12-20/iran-spy-plot-to-kill-two-news-presenters-in-london-uncovered-by-double-agent> ; <https://www.itv.com/watch/news/revealed-terror-plot-to-assassinate-presenters-at-iranian-tv-station-in-uk/zhsqffs> ; <https://www.iranintl.com/en/202211232456> ; <https://www.iranintl.com/en/202312219498>

Instruments, 2023 No 131493 updated with the “Consolidated list of financial sanctions targets in the UK”.

On 29 January, 2024, the UK government announced “new sanctions, coordinated with the US, target Iranian officials responsible for threats to kill on UK soil.”⁹⁴ The purpose of this administrative instrument is, according to the *Explanatory memorandum to the Iran (Sanctions) Regulations 2023, 2023 no. 1314*:⁹⁵

“Under the Sanctions and Anti-Money Laundering Act 2018 (‘the Sanctions Act’) to create a new sanctions regime in relation to Iran in order to deter the Government of Iran or an armed group backed by the Government of Iran from conducting hostile activity against the United Kingdom or any other country and to encourage the Government of Iran to comply with international human rights law and to respect human rights.”⁹⁶

The UK imposed sanctions on seven individuals and one organization, including members of criminal gangs collaborating with the regime, and senior Iranian officials’ part of IRGC Unit 840, revealed in an ITV investigation on plots to assassinate two television presenters from Iran International in the UK.⁹⁷ According to the press release:

- “The regime contains measures designed to target individuals and organizations, including designation powers designed to deter the

⁹³ <https://www.legislation.gov.uk/uksi/2023/1314/regulation/1/made>

⁹⁴ <https://www.gov.uk/government/news/uk-and-us-step-up-action-to-tackle-domestic-threat-from-iran#:~:text=Today's%20package%20exposes%20the%20roles,will%20not%20tolerate%20this%20threat>

⁹⁵

https://www.legislation.gov.uk/uksi/2023/1314/pdfs/uksiem_20231314_en_002.pdf

⁹⁶ *Explanatory memorandum to the Iran (Sanctions) Regulations 2023 2023 no. 1314, 2. Purpose of the Instrument.*

⁹⁷ <https://www.itv.com/news/2024-01-29/iranian-officials-sanctioned-after-itv-news-reveals-plot-to-kill-uk-journalists> and <https://www.itv.com/news/2023-12-20/iran-spy-plot-to-kill-two-news-presenters-in-london-uncovered-by-double-agent> and <https://www.itv.com/watch/news/revealed-terror-plot-to-assassinate-presenters-at-iranian-tv-station-in-uk/zhsqffs>

Government of Iran, or armed groups that they back, from conducting hostile activity against the United Kingdom or any other country.

- *“Since the start of 2022, the UK has responded to more than 15 credible threats and plots to kill British or UK-based individuals by the Iranian regime. The regime has publicly called for the killing of these individuals and in some cases detained and harassed the individual’s families in Iran.*
- *“The UK government works with a range of partners and will continue to use all tools at our disposal to protect individuals in the UK against any threats from the Iranian state.*
- *“The government continually assesses potential threats in the UK, and takes the protection of individuals’ rights, freedoms, and safety very seriously – wherever those threats may originate.*
- *“By significantly expanding the UK’s sanctions powers, the UK has created new criteria under which individuals and entities can be sanctioned, including:*
 - *the Iranian regime’s activities undermining peace, stability and security in the Middle East and internationally*
 - *the use and spread of weapons or weapons technologies from Iran*
 - *the Iranian regime’s undermining of democracy, respect for the rule of law and good governance*
 - *other hostile activities towards the UK and our partners emanating from the Iranian regime, including threats to our people, property, or security.”*

The Iran Sanctions Regulations 2023, UK Statutory Instruments, 2023 No 1314 has finally been updated with the “Consolidated list of financial sanctions

targets in the UK” (31/01/2024)⁹⁸ with seven additional IRGC commanders and entities included for “threatening, planning or conducting attacks, including assassinations and threats to life, in countries other than Iran, including the UK”.⁹⁹ The individuals that are subject to UK travel bans and asset freezes include:

- *Esmail Qaani*: Head of Islamic Revolutionary Guard Corps Quds Force (IRGC-QF)
- *Mohammed Saeed Izadi*: Head of IRGC-QF Palestine Branch; and Head, Abu Jihad Foreign Operations Unit
- *Ali Marshad Shirazi*: Member of IRGC-QF Palestine Branch
- *Majid Zaree*: Member of IRGC-QF Palestine Branch
- *Mostafa Majid Khani*: Member of IRGC-QF Palestine Branch

The following entity is also being sanctioned by the UK and is subject to asset freezes:

- *The Islamic Revolutionary Guard Corps Quds Force (IRGC-QF) Palestine Branch*¹⁰⁰

9.4 Recent decisions in Canada

Canada’s designation of the IRGC as a terrorist organization

On June 19, 2024, the Canadian government announced the listing of the IRGC as a terrorist entity under the Criminal Code. The decision came into force on the same date. The designation states:

⁹⁸

<https://assets.publishing.service.gov.uk/media/65af98489f121a000db4b88f/Cyber.pdf>

⁹⁹ E.G. see page 4 n° 20 listed 29/01/2014; see p. 12 n° 75 listed 29/01/2024; see p. 19 n. 126; and the other entities added in the list.

¹⁰⁰ <https://www.gov.uk/government/news/uk-and-us-step-up-action-to-tackle-domestic-threat-from-iran#:~:text=Today's%20package%20exposes%20the%20roles,will%20not%20tolerate%20this%20threat>

“Based on their actions, there are reasonable grounds to believe that the IRGC has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity, or has knowingly acted on behalf of, at the direction of, or in association with an entity that has knowingly carried out terrorist activity. Listing the IRGC means that they are a terrorist group. The decision to list the IRGC through the Criminal Code listing regime sends a strong message that Canada will use all tools at its disposal to combat the terrorist activity of the IRGC, conducted both unilaterally and in knowing association with listed terrorist entities such as Hizballah and Hamas.”

It further states:

“The Government of Canada has listed several terrorist entities that have benefited from the IRGC’s patronage and that have helped advance Iran’s interests and foreign policy. These include Hizballah, Hamas, the Palestinian Islamic Jihad, and the Taliban.”

The announcement of Canada’s designation follows, to a certain extent, the structure of announcement of the US designation of the IRGC in 2109. It is clear that the Canada’s decision to designate the IRGC has been taken in the light of recent developments in the Middle East. As is known, Iran through the IRGC attempts to destabilize the region and, by corollary, the world. The designation does not directly link the IRGC with the attack on Israel on 7 October, however it links directly the IRGC with Hamas and Palestinian Islamic Jihad (PIJ), which carried out the attack. There is no doubt that the IRGC played, at the very least, a supportive role on that attack.

Certainly, Canada’s designation is yet another decision from a competent authority under the meaning of the Common Position, upon which the EU Council-COMET WP may designate the IRGC as a terrorist organization. Nobody can doubt the transparency and integrity of the Canadian designation

system. From another perspective, Canada’s designation is a new blow to Mr. Borrell’s reluctance to list the IRGC on the EU terror list.”

Ontario Supreme Court decisions

The Ontario Supreme Court has made two recent rulings that constitute decisions relating to the IRGC within the meaning of the Common Position:

ZAREI v IRAN, 2021 ONSC 3377 (CanLII)¹⁰¹

Flight PS752 was shot down by the IRGC shortly after taking off from Tehran on 8 January, 2020, killing all 176 people onboard, including 55 Canadian citizens and 30 Canadian permanent residents. The Iranian government claimed in a 2021 report that the airliner was shot down accidentally after being “misidentified” by an air defence unit as a “hostile target” — a conclusion Canadian safety officials say Iran failed to support with evidence. The Ukrainian airliner was shot down five days after the US assassinated Iranian general Qassem Soleimani. That action pushed the US and Iran to the brink of war, with Iran launching a series of retaliatory missile strikes against US personnel stationed in Iraq.

In this ruling, the Ontario Court determined that the IRGC missile attack on Ukrainian Airlines Flight 752 was an act of terrorism. Consequently, both Iran and the IRGC were held liable to pay monetary damages to the victims’ relatives acting as plaintiffs. More precisely the decision concluded that the missile attacks were intentional and that the “armed conflict” exception was not available to the defendants because there was no armed conflict in the region at the time in question.

ARSALANI V. ISLAMIC REPUBLIC OF IRAN, 2023 ONSC 952 (CANLII)¹⁰²

The Ontario Supreme Court determined in 2023 that the IRGC qualifies as a “listed entity” in Canada due to the designation of one of its branches, the Quds

¹⁰¹ <https://humanrightsintl.com/wp-content/uploads/2022/01/Zarei-v.-Iran-Damages.pdf>

¹⁰² Arsalani v. Islamic Republic of Iran, 2023 ONSC 952

Force. The court ruled in a case involving a late Canadian lawyer's estate, dismissing it because the Iranian aviation company, alleged to be linked to the IRGC, was associated with an alleged IRGC financier. The judge concluded that paying the debt would violate Canada's anti-terrorism laws.

Conclusion

We have provided numerous decisions concerning IRGC involvement in terrorist acts made by competent authorities in the EU and third countries that justify its designation by the Council as a terrorist organization under the Common Position

It is recalled that under the Common Position, one such decision is sufficient for designation.

10. CONCLUSIONS

1. By adopting Common Position 931/2001, the European Union has recognized the critical importance of addressing international terrorism collectively. The Common Position aims to enhance security cooperation across Member States to prevent and counter terrorism threats of an EU-wide dimension. To this end, Member States have delegated part of their national security attributions to the Council, recognising that transnational terrorism requires a unified response. By pooling resources and expertise, the EU strengthens its ability to prevent and combat terrorist threats.
2. Common Position 931/2001 responds to the implementation of UNSC Resolution 1373/2001, passed in the wake of the 9/11 terrorist attacks on the United States. Common Position 931/2001's ultimate purpose is to protect the lives and integrity of EU citizens and residents in the common area. The Common Position entrusts the Council with responsibility for ensuring that persons, groups and entities are placed and retained on the EU terror list, where to do so would be necessary in order to prevent terror acts from taking place.

3. There is compelling evidence that global terrorism is a recurring element of Iran's foreign policy. This global terrorism agenda is planned and carried out by the IRGC, which, as discussed, is virtually accountable for its misconduct due to Iran's constitutional framework.
4. This report documents past and present patterns of the IRGC's terrorist activity. These terror capabilities have only increased over time, posing a significant threat to world peace and security.
5. There are numerous decisions by competent judicial and non-judicial authorities within the meaning of Article 1 (4) of Common Position 931. In fact, the Common Position provides that only one such decision could be enough for designation. We have included decisions from EU Member States and from third parties. We have submitted administrative decisions, court decisions, and prosecutorial decisions relating to investigating terrorism and terrorism-related crimes within the definition of "terrorist act" as outlined in Article 1 (3) of the Common Position. It is also obvious that the IRGC is a "structured group" that conforms to the definition of a "terrorist group" provided for in the last paragraph of said provision. These decisions justify, and arguably require, the EU designation of the IRGC itself as a terrorist organization.
6. Amongst the decisions by national authorities in EU Member States, the most compelling decisions are those in Germany.
7. A number of decisions from third countries (UK, USA, Argentina, Canada) also qualify as decisions by competent authorities under the Common Position. They are consistent and based on credible evidence.
8. We understand that all of these decisions secured interested parties the right of defence and effective judicial protection.
9. The recent US and Canadian designations of IRGC also qualify as decisions by competent authorities within the meaning of the

Common Position. Given the particular importance of the US Designation of the IRGC as a foreign terrorist organization (FTO) on 15 April, 2019, we have attached a memorandum by Prof. Steve Zipperstein, former US federal prosecutor and current law professor at UCLA, who concludes that the procedural safeguards and guarantees afforded to the designated entity offer “protections [that] more than satisfy due process standards and norms”.

10. In light of these decisions, in our view there is no legal basis for the EU not to designate the IRGC as a terrorist group. In fact, given the ongoing threat posed by the IRGC both within the EU and globally, there is, in our view, a legal obligation on the Council to place the IRGC on the list. A decision *not* to place IRGC on the list would be a political decision that goes against the democratic will of the people of the European Union as expressed by the recent resolution of the EU Parliament calling on the Council to place the IRGC on the EU terrorist list.
11. We further believe that under the Common Position the Council is required to consider designation of the IRGC based not solely on decisions by competent national authorities, but also on other sources of information, including open-source information, classified information, intelligence assessments, and testimonies of experts. These information sources, revealing ongoing IRGC involvement in terror-related activities, should be incorporated into the file compiled for designation and duly assessed, as outlined in Article 1 (4) of the Common Position and its subsequent Working Party on Restrictive Measures to Combat Terrorism issued in 2016 (COMET WP).
12. Common Position 931 and the COMET WP provide that either the High Representative for Foreign Affairs and Security Policy and Member States are entitled to initiate a proposal for designation of a terrorist organization. However, the High Representative, who is vested on the delegated authority of Member States to run these

matters, is in a better position to initiate the proposal, particularly when the IRGC designation may be based on numerous decisions by competent authorities from third countries and coordination with them will be required. The High Representative has a duty to initiate the proposal for the IRGC designation. We should recall that Common Position 931 is a means of implementing UNSC Resolution 1373/2001 and customary international law on counterterrorism.

13. To withstand any potential request for judicial review of a possible IRGC designation, it is crucial for the Council-COMET WP to provide a statement of reasons clarifying that the criteria for designation have been met. The statement must spell out clearly: (i) the terrorist act underlying the decision; (ii) the nature or identification of the competent authority that issue the decision; and (iii) the type of decision that serves as a basis for the designation. If the decision comes from authorities in third countries, the statement will need to explain how these authorities secured the right of defence and the right to effective judicial protection (due process) of the designated organization.

APPENDICES

APPENDIX I. Memorandum by Prof. Steve Zipperstein on whether the 2019 US Designation of the IRGC as an FTO complies with adequate standards of due process and norms.

15 May 2024

To: Alessandro Spinillo Andrew Tucker

From: Steven E. Zipperstein¹⁰³

Re: Due Process Protections for U.S. Department of State Foreign Terrorist Organization (FTO) Designations, including the IRGC FTO Designation

Introduction

This memorandum responds to your request for a legal opinion regarding whether the United States Government’s designation of the Islamic Revolutionary Guard Corps (IRGC) as a “Foreign Terrorist Organization” (FTO) adhered to adequate standards of due process. As the following analysis demonstrates, the answer to your question is that the FTO designation procedure and applicable United States law complied with due process standards and norms.

This conclusion is based on a variety of reasons, as explained below. The most important such reason is that the IRGC had the statutory right to seek judicial review of the FTO designation, but the IRGC failed to avail itself of this right.

Moreover, the IRGC has the statutory right to ask the State Department to revoke/delist the FTO designation. It is not known whether the IRGC has done

¹⁰³ The author has been practicing law in the United States since 1983 and is licensed in California. He is a former United States federal prosecutor and the former Chief Legal Officer of Verizon Wireless and BlackBerry Ltd. He currently teaches at the University of California, Los Angeles. The views in this memorandum are his alone and should not be attributed to any of his employers, past or present.

so, but even if it has not, the State Department on its own would be required to review the designation between April-October 2024 to determine whether the designation remains appropriate, or whether circumstances have changed to the extent that the designation should be revoked/delisted.

These protections more than satisfy due process standards and norms.

Overview

Title 8, section 1189 of the United States Code (Supp. IV 1998), enacted by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. No. 104-132, § 302(a), 110 Stat. 1248, reflects the U.S. Congressional determination to "prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities." 8 USC 301(b) (statement of congressional purpose); *see generally* 8 USC 301(a) (congressional findings regarding the threat to the United States posed by terrorism and by financial contributions to terrorist organizations).

Pursuant to 8 USC 1189, Foreign Terrorist Organizations (FTOs) are foreign organizations designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act.

The State Department's Bureau of Counterterrorism (CT) is the U.S. government component responsible for implementing the FTO Designation process, pursuant to a delegation of authority from the Secretary of State. The CT's website, accessible throughout the world, provides a public explanation of the purpose and process for designating FTOs, <https://www.state.gov/foreign-terrorist-organizations/>. The CT's website notes that FTO designations "play a critical role in the United States government's fight against terrorism and are an effective means of curtailing support for terrorist activities."

The United States Supreme Court discussed the background and purpose of the FTO designation authority in *Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010).

Under 8 USC 1189, the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General (8 USC 1189(c)(4)), is authorized to designate an organization as a foreign terrorist organization if the Secretary finds the following criteria have been met:

- First, the organization is a foreign organization;
- Second, the organization engages in terrorist activity; and
- Third, the organization's terrorist activity threatens the security of United States nationals or the national security of the United States, meaning the organization's activity threatens the "national defense, foreign relations, or economic interests of the United States." (8 USC 1189(c)(2)).

Three consequences flow from the State Department's designation of an organization as a FTO:

- First, if any financial institution becomes aware that it possesses or controls the funds of such an organization, the institution is required to retain the funds and notify the Secretary of the Treasury of their existence. 18 USC 2339B(a)(2); *see also* 8 USC 1189(a)(2)(C) (authorizing the Secretary of the Treasury to issue a blocking order at the time that Congress is notified of the impending designation);
- Second, alien representatives of the organization, as well as alien members who know or should have known that the organization is a foreign terrorist organization, may not be admitted to the United States. 8 USC 1182(a)(3)(B)(i)(IV) and (V); and
- Third, any United States person who knowingly provides "material support or resources" to the organization will be guilty of a criminal offense. 18 USC 2339B(a)(1).

The statute allows designated FTOs the right to file a petition with the State Department seeking revocation/delisting of the FTO designation. 8 USC 1189 (a)(4)(B). The FTO must provide evidence in the petition showing the circumstances have changed to the extent that they "are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the organization is warranted."

The State Department must respond to the FTO's petition for revocation/delisting not later than 180 days after receiving the petition. The statute also provides for the revocation/delisting of FTO designations in any of the following additional circumstances:

- First, where the Department of State decides that the circumstances that were the basis of the original designation have changed in such a manner as to warrant a revocation/delisting; or
- Second, the Department of State must revoke/delist a designation if the Secretary finds that the national security of the United States warrants a revocation/delisting; or
- Third, the Secretary of State may revoke/delist a designation at any time; or
- Fourth, Congress can revoke/delist a designation at any time. 8 USC 1189 (a)(5).

Any revocation/delisting shall take effect on the date specified in the revocation/delisting, or upon publication in the Federal Register if no effective date is specified. The revocation/delisting of a designation shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation/delisting.

If, during any five-year period post-designation, a FTO has not availed itself of its right to file a petition with the State Department seeking revocation/delisting of the FTO designation, then the State Department must on its own undertake a review to determine whether the designation should be revoked/delisted due to changed circumstances demonstrating that the designation is no longer appropriate. 8 USC 1189 (a)(4)(C).

The State Department has revoked/delisted 20 separate designations since 1999, strong evidence of the Department's ongoing commitment to review designations on an ongoing basis to ensure they still meet the statutory requirements, and to revoke/delist such designations when circumstances have changed to the extent that the designation should no longer continue in effect.

The IRGC FTO Designation

On 8 April 2019 the State Department issued a “Fact Sheet” expressing its intent to designate the IRGC as a FTO (see Appendix A, also available at <https://2017-2021.state.gov/designation-of-the-islamic-revolutionary-guard-corps/>).

The Fact Sheet was published on the internet on 8 April 2019, and it has remained accessible globally up to the present date. This Fact Sheet provides a detailed description of the IRGC's terrorist activities across numerous countries, thereby justifying its FTO designation.

The State Department published the IRGC FTO designation on 15 April 2019 in the Federal Register.

The IRGC did not avail itself of its legal right under US law to challenge the FTO designation in court.

The IRGC also had and continues to enjoy the legal right to file a petition with the State Department seeking revocation/delisting of the FTO designation. The author of this memorandum is not aware whether the IRGC has done so. If the IRGC has not done so, then the State Department will be required by statute to undertake its own review of the designation between April-October 2024, and to make a determination by 15 October 2024 whether circumstances have changed since the original designation to the extent that the designation is no longer appropriate.

In any event, the IRGC FTO designation remains in effect as of the date of this memorandum.

FTO Designations: Due Process Safeguards

Pre-Designation: Organizations with Presence in the US and Substantial Connections.

When CT identifies a target, it must prepare an “administrative record,” typically including both classified and open source information, demonstrating that the statutory criteria for designation have been satisfied. 8 USC 1189(a)(3)(A) and (B).

If the target has a presence in the United States and has substantial connections with the United States, then it is entitled to notice and a right to be heard at the pre- 5 designation stage, with rights to contest the factual accuracy of the State Department’s administrative record.

The United States Court of Appeals for the District of Columbia Circuit addressed this issue in *National Council of Resistance v. Dept. of State*, 251 F.3d 192 (D.C. Cir. 2001). The petitioners in that case challenged their designation as FTOs, alleging the State Department should have accorded them due process at the pre-designation stage. Petitioners claimed they were entitled to the due process protections of the US Constitution at the pre-designation stage because of their presence in the United States and their substantial connections with the United States, including maintaining offices in the National Press Club building in Washington, D.C.

The petitioners therefore argued that the State Department was obligated to provide them advance notice of the Department’s intent to designate them as FTOs, to afford them an opportunity to respond to the evidence upon which the Department proposed to make the FTO designation, and to allow them to be heard on the proper resolution of the relevant factual and legal issues.

The Court of Appeals ruled in favor of both petitioner organizations. The Court held that petitioners’ presence in the United States and their substantial connections to the United States triggered the due process protections of the US Constitution:

“We therefore require that as soon as the Secretary has reached a tentative determination that the designation is impending, the Secretary must provide notice of those unclassified items upon which he proposes to rely to the entity to be designated. There must then be some compliance with the hearing requirement of due process jurisprudence – that is, the opportunity to be heard at a meaningful time and in a meaningful manner.”¹⁰⁴

¹⁰⁴ 251 F. 3d at 205. In a subsequent ruling in the same case, the Court of Appeals held that the State Department eventually provided notice and an opportunity to be heard

Pre-Designation: Foreign Organizations

The court in *National Council* noted that its ruling applied only to parties who were present in the United States and maintained substantial connections to the United States. The court distinguished such parties from foreign organizations (such as the IRGC), noting foreign organizations are *not* entitled to pre-designation advance notice or a right to be heard prior to the designation. The court based this distinction on the U.S. Supreme Court’s decision in *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990), where the Supreme Court said that aliens are entitled to U.S. constitutional protections (such as due process) *only* “when they have come within the territory of the United States and developed substantial connections with this country.”

Nevertheless, even foreign groups, such as the IRGC, can still avail themselves of post-designation judicial review by filing a petition with the U.S. Court of Appeals for the District of Columbia Circuit, as discussed below.

Pre-Designation: Congressional Review

If the Secretary of State, in consultation with the Attorney General and the Secretary of the Treasury, decides to designate an organization as a FTO, the statute requires the State Department to provide notice to Congress. This requirement applies both to organizations with a presence in the United States and substantial connections to the United States, and to foreign organizations.

The notice to Congress must describe the factual basis for the required findings supporting the FTO designation. 8 USC 1189(a)(2)(A)(i). The State Department must provide the notice seven days prior to publishing the FTO designation in the Federal Register.

The purpose for the pre-publication congressional notice requirement is to allow Congress the opportunity during those seven days to review the proposed designation and to block the designation if it so chooses. Once again, this

to the petitioner organizations, and therefore afforded adequate due process to them. “The record reflects that the Secretary complied with our instructions.” *People's Mojahedin Org. v. Dept. of State*, 327 F.3d 1238, 1242 (D.C. Cir. 2003).

protection applies both to organizations with a presence in the United States and substantial connections to the United States, and to foreign organizations.

Upon the expiration of the seven-day waiting period, and absent Congressional action to block the designation, notice of the designation is published in the Federal Register, at which point the designation takes effect.

Post-Designation: Judicial Review

An organization designated as a foreign terrorist organization may obtain judicial review of the Secretary's designation in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition with the court not later than 30 days after the designation is published in the Federal Register. 8 USC 1189(b)(1). This legal right to seek judicial review applies both to organizations with a presence in the United States and substantial connections to the United States, and to foreign organizations.

The enlisted terrorist organization has access to the unclassified portions of the administrative file, due process does not require the disclosure of classified information, except that the Government may submit, for *ex parte* and *in camera* review, classified information used in making the designation under 8 USC 1189(b)(2).

The court of appeals has very broad authority to overturn FTO designations. The court's review covers matters both of fact and law. The statute provides that the court "shall hold unlawful and set aside a designation the court finds to be "arbitrary, capricious, an abuse of discretion;" "contrary to constitutional right, power, privilege or immunity;" "in excess of statutory jurisdiction, authority or limitation;" "lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court;" or a designation that was not made "in accord[ance] with the procedures 7 required by law." 8 USC 1189(b)(3).

Post-Designation: Right to Petition for Revocation/Delisting

As discussed above, the statute allows FTO's the right to petition the State Department to revoke/delist the FTO designation based upon changed circumstances demonstrating that the facts as they existed at the time of the

original designation have changed to the extent that the designation is no longer justified.

This legal right to seek revocation/delisting applies both to organizations with a presence in the United States and substantial connections to the United States, and to foreign organizations.

This legal right, separate from and in addition to the right to seek judicial review, provides significant post-designation due process protection to organizations designated as FTOs.

Post-Designation: Five-Year State Department Review

As discussed above, if in any five-year period a designated FTO has not filed a petition with the State Department seeking revocation/delisting of the FTO designation, then the State Department must on its own undertake a review to determine whether the designation should be revoked/delisted due to changed circumstances.

Analysis

The Statute and Judicial Review Provide Adequate Due Process

The statutory scheme described above provides more than adequate due process safeguards to organizations designated as FTOs.

First, the statute requires the Department of State to compile and prepare a detailed administrative record demonstrating the factual basis for satisfying the three-prong test for determining whether an organization meets the criteria for designation as an FTO.

Second, the State Department must provide seven days' notice to the U.S. Congress before publishing the designation in the Federal Register. The State Department must explain the factual and legal basis for the proposed designation. If Congress disagrees with the State Department, it can block the proposed designation prior to the expiration of the seven-day notice period. Congress also has the power to revoke/delist FTO designations after they have been published.

Third, once the FTO designation is published in the Federal Register, the impacted organization can file a legal challenge with the United States Court of Appeals for the District of Columbia Circuit (one step below the United States Supreme Court). The Court has broad powers of review and can strike down the designation for any number of substantive and/or procedural due process reasons.

In the *National Council* ruling the court added various pre-designation due process safeguards for organizations present in and with substantial connections to the United States. The *National Council* ruling demonstrates that the judicial review process for FTO designations is robust and offers powerful due process protections.

Even for foreign organizations, the post-designation availability of judicial review provides strong due process rights.

Fourth, designated FTOs have the legal right to petition the Secretary of State for the revocation/delisting of its designation based on changed circumstances, as discussed above.

Finally, even if the FTO has not filed a petition seeking revocation/delisting during a five-year period, the State Department must on its own review the designation to determine whether circumstances have changed since the time of the original designation to the extent that the designation is no longer justified.

The IRGC Designation Did Not Violate Due Process

The State Department issued a Fact Sheet on 8 April 2019 expressing its intent to designate the IRGC as an FTO. The designation became effective upon publication in the Federal Register one week later, on 15 April 2019.

Pursuant to 8 USC 1189(c) the IRGC could have sought judicial review of the State Department's designation by filing a petition within 30 days with the United States Court of Appeals for the District of Columbia Circuit. For whatever reason, the IRGC chose not to seek judicial review.

The IRGC should have been well aware of its right to challenge the FTO designation in court. The matter was well-publicized at the time both in the United States and overseas, and on the internet.

For example, on 10 April 2019, only two days after the State Department issued the Fact Sheet expressing its intent to designate the IRGC as an FTO designation (and 35 days prior to the IRGC's 15 May 2019 deadline for filing a petition seeking judicial review), the "Lawfare" website published a detailed article regarding the State Department's decision to designate the IRGC as an FTO.¹⁰⁵

The Lawfare article discussed the IRGC's legal right to seek judicial review of the decision. The Article further discussed in detail the strengths and weaknesses of the IRGC's potential legal challenge to the designation. The "Lawfare" website is accessible globally, and it can fairly be presumed the IRGC was aware of its right to seek judicial review of the State Department's FTO designation.

The author of this memorandum is unaware whether the IRGC has filed availed itself of its legal right to file a petition with the State Department seeking revocation/delisting of its FTO designation based on changed circumstances. However, even if the IRGC has failed to take advantage of this legal right, the five-year period for the State Department to review the designation would be in effect as of 15 April 2024 and continue for six months, until 15 October 2024.

Conclusion

The United States' designation of the IRGC as a "Foreign Terrorist Organization" did not violate due process standards and norms. The State Department complied with the pre-designation requirement to prepare a detailed administrative record establishing the factual and legal basis for the FTO designation. The State Department's pre-designation procedure did not implicate the IRGC's due process rights under U.S. law, as the IRGC has no

¹⁰⁵ E. Chachko, "The U.S. Names the Iranian Revolutionary Guard a Terrorist Organization and Sanctions the International Criminal Court," Lawfare (10 Apr. 2019), <https://www.lawfaremedia.org/article/us-names-iranian-revolutionary-guard-terrorist-organization-and-sanctions-international-criminal>

presence in the United States, and it does not maintain substantial connections to the United States.

The State Department also complied with the requirement to provide seven days advance notice to the United States Congress prior to publishing the FTO designation in the Federal Register. Congress could have blocked the IRGC designation as a FTO during the seven-day pre-designation review period, but it chose not to do so.

Most importantly, the IRGC could have appealed the FTO designation to the United States Court of Appeals for the District of Columbia Circuit, but it chose not to do so. The IRGC therefore waived its statutory right to seek judicial review in the United States.

The IRGC easily could have become aware that the same court before whom it could have challenged the legality of the April 2019 FTO designation (the United States Court of Appeals for the District of Columbia Circuit) had previously ruled *against* the US government in the *National Council* case, and that a petition to that court would have been taken seriously. The court would have conducted an independent and thorough review of the legality of the FTO designation, if the IRGC had chosen to file a petition with the court. But for whatever reason, the IRGC chose not to avail itself of this legal right.

The IRGC could also have filed a petition with the State Department seeking revocation/delisting of the FTO designation, although the author of this memorandum is not aware whether in fact the IRGC has done so.

In the event the IRGC has not filed such a petition, the State Department must on its own undertake a review of the designation to determine whether it still meets the statutory criteria, or whether the circumstances have changed since the original designation to the extent that the designation is no longer appropriate. That determination will be made by 8 October 2024, but the author is not aware whether such a review is ongoing, given that the author of this memorandum is unaware whether ¹¹ the IRGC has previously filed a petition for revocation/delisting during the period between 15 April 2019 and 15 April 2024.

Therefore, the IRGC cannot seriously contend that the FTO designation violated due process standards and norms. Finally, both Congress and the State Department have authority to revoke/delist IRGC's FTO designation, but neither has done so.

Therefore, based on the above discussion, it is my legal opinion that the State Department's April 2019 designation of the IRGC as a Foreign Terrorist Organization did not violate due process standards or norms.

APENDIX II. UN Resolution 1373 (2001) Adopted by the Security Council at its 4385th meeting, on 28 September 2001

The Security Council,

Reaffirming its resolutions 1269 (1999) of 19 October 1999 and 1368 (2001) of 12 September 2001,

Reaffirming also its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts,

Reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security,

Reaffirming the inherent right of individual or collective self-defence as recognised by the Charter of the United Nations as reiterated in resolution 1368 (2001),

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Deeply concerned by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism,

Calling on States to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism,

Recognizing the need for States to complement international cooperation by taking additional measures to prevent and suppress in their territories, through all lawful means, the financing and preparation of any acts of terrorism,

Reaffirming the principle established by the General Assembly in its declaration of October 1970 (resolution 2625 (XXV)) and reiterated by the Security Council in its resolution 1189 (1998) of 13 August 1998, namely that every State has the

duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,

Acting under Chapter VII of the Charter of the United Nations,

1. Decides that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalise the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

2. Decides also that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

3. Calls upon all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists;

4. Notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasises the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security;

5. Declares that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

6. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members

of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and calls upon all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;

7. Directs the Committee to delineate its tasks, submit a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the Secretary-General;

8. Expresses its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter;

9. Decides to remain seized of this matter.

APPENDIX III. COMMON POSITION 2001/931/CFSP, 27 DECEMBER 2001

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 organization, 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 organization 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 organization:
 - (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.

APPENDIX IV. REGULATION (EC) NO 2580/2001, 27 DECEMBER 2001, ON SPECIFIC RESTRICTIVE MEASURES DIRECTED AGAINST CERTAIN PERSONS AND ENTITIES WITH A VIEW TO COMBATING TERRORISM

Article 2.1

1. Except as permitted under Articles 5 and 6:

- a) all funds, other financial assets and economic resources belonging to, owned or held by, a natural or legal person, group or entity included in the list referred to in paragraph 3, shall be frozen;
- b) no funds, other financial assets and economic resources shall be made available, directly or indirectly, to or for the benefit of, the natural or legal person, group or entity included in the list referred to in paragraph 3;

Article 2.2

Except as permitted under Articles 5 and 6, it shall be prohibited to provide financial services to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.

Article 2.3

The Council, acting by unanimity, shall establish, review and amend the list of persons, groups and entities to which this Regulation applies, in accordance with the provisions laid down in Article 1(4), (5) and (6) of Common Position [2001/931]. Such list shall consist of:

- a. natural persons committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;
- b. legal persons, groups or entities committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;

- c. legal persons, groups or entities owned or controlled by one or more natural or legal persons, groups or entities referred to in points i) and ii) or
- d. natural or legal persons, groups or entities acting on behalf of or at the direction of one or more natural or legal persons, groups or entities referred to in points (i) and (ii).

APPENDIX V. RECENT CALLS FOR IRGC DESIGNATION IN THE EU

For several years, European leaders have been calling for inclusion of the IRGC on the EU terror list. The armed conflict involving Israel, Hamas, Hezbollah and Iran since October 2023 has further highlighted the role of the Iranian Regime in promoting its revolutionary ideology beyond its borders. The threat of regional escalation, coupled with ongoing violence against Iran's perceived enemies on European soil, threatens the security of European citizens. This has compelled representatives of European Member States and institutions in recent weeks and months to underscore the longstanding and immediate necessity of including the IRGC in the European Union terror list. These statements are important, because they both constitute evidence that the IRGC is involved in terrorist acts and demonstrate that there is a strong political groundswell of support for the inclusion of the IRGC on the EU terror list.

RECENT STATEMENTS CONDEMNING IRANIAN INVOLVEMENT IN TERRORIST ACTS

European Parliament, Joint motion for a Resolution on Iran's unprecedented attack against Israel, the need for de-escalation and an EU response (2024/2704(RSP)), adopted on 24 April, 2024

[...]

- O. “Whereas the US designated the IRGC a foreign terrorist organization in April 2019; whereas the European Parliament has been requesting that the IRGC be added to the EU terrorist list since early 2023; whereas the IRGC have been implicated in the planning and/or execution of dozens of operations, assassinations and terrorist attacks on EU soil over the past 30 years, including the ‘Mykonos Plot’ in Berlin in 1992, the bus bombing and killing of five Israeli citizens and one Bulgarian national in Bulgaria in 2012, the murder of Iranian dissidents in the Netherlands in 2015 and 2017, a planned bomb attack on Iranian dissidents in Paris in 2018, a planned assassination of three Iranian dissidents in Denmark in 2018 and an attempted arson attack against a synagogue in Bochum, Germany in

2022; whereas some EU foreign affairs ministers made a request for sanctions against the IRGC during the Foreign Affairs Council meeting of 16 April 2024;”

P. “Whereas an estimated two dozen innocent EU nationals have been arbitrarily detained as part of Iran’s hostage diplomacy to extort political wins; whereas Iran has abducted dissidents outside of its own territory in order to detain or execute them in Iran;”

S.5. “Reiterates its long-standing call for the Council and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) to add the IRGC to the EU list of terrorist organizations and stresses that this decision is long overdue; highlights the fact that there have been dozens of IRGC assassinations and attempts on European soil in the past few years;”.¹⁰⁶

G7 2024, Foreign Ministers’ Meeting Communiqué, Capri, 19 April, 2024

“We, the G7 Foreign Ministers of Canada, France, Germany, Italy, Japan, the United Kingdom and the United States of America, and the High Representative of the European Union, condemn in the strongest terms Iran’s direct and unprecedented attack against Israel of April 13-14, which Israel defeated with the help of its partners. [...] We strongly reject Iran’s targeting and arbitrary arrest of dual and foreign citizens and call on Iran’s leadership to end all unjust and arbitrary detentions. We condemn Iran’s harassment, intimidation and plots to kill perceived dissidents and opponents of the regime overseas, including journalists and religious figures, as well as the targeting of Jewish individuals and institutions.”¹⁰⁷

United Kingdom Prime Minister Rishi Sunak sanctioned a further 7 individuals and 6 entities that enabled Iran’s destabilising activity in the Middle East, including its direct attack on Israel, 18 April, 2024

¹⁰⁶ https://www.europarl.europa.eu/doceo/document/RC-9-2024-0235_EN.html ;
https://www.europarl.europa.eu/doceo/document/CRE-9-2024-04-24-ITM-003_EN.html

¹⁰⁷ https://www.esteri.it/en/sala_stampa/archivionotizie/comunicati/2024/04/g7-foreign-ministers-meeting-communicue-capri-april-19-2024/

“Today we have sanctioned the ringleaders of the Iranian military and forces responsible for the weekend’s attack”¹⁰⁸

Statement by President Von der Leyen on Iran’s attack on Israel, European Commission, 14 April, 2024

“We the Leaders of the G7 condemned this in the strongest terms. We express our solidarity and support to the people of Israel and reaffirm our unshakable commitment towards its security [...] Going forward we will reflect on additional sanctions against Iran in close cooperation with our partners.”¹⁰⁹

Council of the European Union, Iran: Statement by the High Representative on behalf of the EU, Press Release, 14 April, 2024

“The EU reiterates its commitment to the security of Israel. In this highly tense regional situation, further escalation can be no one’s interest. We call on all parties to exercise utmost restraint.”¹¹⁰

United Kingdom Assistant Commissioner Specialist Operations Metropolitan Police Service Matt Jukes, 18 February, 2023

“Our overall workload in investigating threats from foreign states has quadrupled over the past two years [...] Officers from counter-terrorism policing alongside local officers and other specialists from the Met continue to work in response to potential threats projected from Iran against a number of UK-based individuals”.¹¹¹

MI5 Director General Ken McCallum gives annual threat update, November 16, 2022

“Iran projects threat to the UK directly, through its aggressive intelligence services. At its sharpest this includes ambitions to kidnap or even kill British or

¹⁰⁸ <https://www.gov.uk/government/news/the-uk-and-us-sanction-leading-iranian-military-figures-and-entities-following-the-attack-on-israel>

¹⁰⁹ https://ec.europa.eu/commission/presscorner/detail/en/statement_24_2001

¹¹⁰ <https://www.consilium.europa.eu/en/press/press-releases/2024/04/14/iran-statement-by-the-high-representative-on-behalf-of-the-eu/>

¹¹¹ <https://www.theguardian.com/uk-news/2023/feb/18/met-police-mi5-foil-15-iranian-plots-against-british-or-uk-based-enemies>

UK-based individuals perceived as enemies of the regime. We have seen at least ten such potential threats since January alone. The Foreign Secretary made clear to the Iranian regime just last week that the UK will not tolerate intimidation or threats to life towards journalists, or any individual, living in the UK.¹¹²

CALLS FOR IRGC INCLUSION ON TERRORIST LISTS

In 2012 Canada designated the IRGC Quds Force as a terrorist entity.¹¹³ “We will continue our work, including continuing to look for ways to responsibly list the IRGC as a terrorist organization,”¹¹⁴ said the Prime Minister of Canada on 5 February 2024 at a memorial for the victims of Ukraine International Airlines Flight 752, which was shot down by the IRGC over Tehran on 8 January, 2020.

In recent years, there have been increasing calls for inclusion of the IRGC on the EU terror list. Here are some examples.

Auswärtiges Amt (foreign ministry of the Federal Republic of Germany), Tweet, 19 December, 2023

“The planned attack on a synagogue in November 2022 in Bochum was carried out by an Iranian state agency, according to the Düsseldorf Higher Regional Court. We have therefore summoned the Iranian chargé d'affaires to the Federal Foreign Office. (1/2) That Jewish life should be attacked here is intolerable. We will not tolerate any foreign-controlled violence in Germany. For consequences and next steps, also at EU level, the exact reasons for the judgement are now important. (2/2)”¹¹⁵

¹¹² <https://www.mi5.gov.uk/news/director-general-ken-mccallum-gives-annual-threat-update>

¹¹³ Government of Canada, Public Safety, currently listed identity, <https://www.publicsafety.gc.ca/cnt/ntnl-scrt/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx#35>

¹¹⁴ <https://www.ctvnews.ca/politics/trudeau-says-canada-could-list-irgc-as-a-terrorist-organizationorganisation-1.6717180>

¹¹⁵ <https://twitter.com/AuswaertigesAmt/status/1737181107596955856> and <https://twitter.com/AuswaertigesAmt/status/173718110251975026>

Dutch Foreign Minister Hanke Bruins Slot informed the Dutch Parliament about the Netherlands' pioneering role in placing the IRGC on the European terrorism list, 24 October, 2023

“The government continues its efforts to explore the possibilities of placing the IRGC on the EU terrorism list.”¹¹⁶

Dutch Tweede Kamer der Staten-Generaal, Motion Brekelmans, taking the lead to put the IRGC on the EU Terrorist List, 25 September, 2023

“The House [...] calls on the Dutch Government to take the lead within the EU, in collaboration with the European Commission and other EU Member States, in encouraging the collection of sufficient evidence and creating the appropriate legal basis to put the Iranian Revolutionary Guard on the EU.” *[translated from Dutch]*¹¹⁷

The Swedish Parliament voted in favor of designating the Islamic Revolutionary, Guard Corps (IRGC) as a terrorist organization, 10 May, 2023

The Swedish Foreign Minister stated that the government aims to maintain a strong stance against the Iranian regime's oppression within the framework of EU unity. The Committee on Foreign Affairs advocated for the IRGC to be listed as a terrorist organization, proposing that the Riksdag urge the government to build EU consensus for this designation.¹¹⁸

The Italian Senate voted a motion to list the IRGC as a terror group in the European Terror List, 22 January 2023

“The Senate [...] commits the Government:

¹¹⁶https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2023D44071&did=2023D44071

¹¹⁷

<https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2023Z15921&did=2023D38840>

¹¹⁸ https://www.riksdagen.se/sv/aktuellt/aktuelltnotiser/2023/apr/27/utskott-uppmanar-regeringen-att-skapa-enighet-om_cms96dc9f84-1fa9-4e63-90ee-7b69ee593547sv/ ; <https://www.riksdagen.se/en/> ; <https://www.iranintl.com/en/202305102418>

1) to take all useful steps, similar to what is already taking place in the national parliaments of other EU and non-EU member countries, with a view to including the organization “Islamic Revolutionary Guards Corps-IRGC,” in its entirety, in the list of persons, groups and entities to which specific EU measures to combat terrorism apply;” *[translated from Italian]*¹¹⁹

European Parliament resolution on the EU response to the protests and executions in Iran (2023/2511(RSP)), 19 January, 2023

AC.11. “Calls on the Council and the Member States to add the IRGC and its subsidiary forces, including the paramilitary Basij militia and the Quds Force, to the EU terrorist list, and to ban any economic and financial activity involving businesses and commercial activities related to, owned, wholly or in part, by, or fronting for, the IRGC or IRGC-affiliated individuals, regardless of their country of operation, while avoiding any adverse consequences for the people of Iran as well as for EU humanitarian and development aid; calls for the EU and its Member States, in cooperation with like-minded partners, to urge any country in which the IRGC deploys military, economic, or informational operations to sever and outlaw ties with the IRGC; strongly condemns the IRGC’s unprovoked attack in the Erbil Governorate of Iraqi Kurdistan and stresses that such indiscriminate attacks threaten innocent civilians and the region’s stability; ...”¹²⁰

Dutch Foreign Minister Stef Blok publicly denounces Iranian liquidations, 8 January, 2019

As Dutch media reported, “after a long silence”, in 2019 Foreign Minister Blok publicly denounced Iranian liquidations, confirming that Iran was involved in two liquidations in the Netherlands in 2015 and 2017 of two Tehran state enemies who had fled to the Netherlands.¹²¹

¹¹⁹

<https://www.senato.it/japp/bgt/showdoc/showText?tipodoc=Sindisp&leg=19&id=1366001>

¹²⁰ https://www.europarl.europa.eu/doceo/document/TA-9-2023-0016_EN.html

¹²¹ <https://www.volkskrant.nl/nieuws-achtergrond/stef-blok-hekelt-de-iraanse-liquidaties-publiekelijk-na-lang-gezwegen-te-hebben~bof87984/>

The head of Denmark’s intelligence agency Finn Borch Andersen accused Iran of plotting to assassinate an opponent of the Iranian Government in Denmark, October 2018

Swedish authorities arrested a Norwegian of Iranian descent over allegations of a planned terror attack, and the suspect was later extradited to Denmark. Andersen emphasised, “We are dealing with an Iranian intelligence agency planning an attack on Danish soil [...] obviously, we can’t and won’t accept that.”¹²² Danish Prime Minister Lars Løkke Rasmussen said on Twitter that it is “totally unacceptable that Iran or any other foreign state plans assassinations on Danish soil. Further actions against Iran will be discussed in the EU.”¹²³

The Canadian House of Commons adopted Report 18 “Measures to protect Canadians” calling for IRGC designation, 8 May, 2024

The Standing Committee on Justice and Human Rights (JUST) adopted Report 18 on 5 December, 2023, and it was approved in the House of Commons on 8 May, 2024. These measures include the will of the Parliament to “designate the IRGC as a terrorist entity under the Criminal Code and expel the estimated 700 Iranian agents operating in Canada”.¹²⁴

¹²² <https://nyheder.tv2.dk/video/UEVUbWVzcDMwMTAxOA> and <https://www.politico.eu/article/copenhagen-accuses-iran-of-planning-to-kill-opponent-on-danish-soil/>

¹²³ <https://twitter.com/larsloekke/status/1057287671914160128>

¹²⁴ <https://www.ourcommons.ca/DocumentViewer/en/44-1/JUST/report-18/>
<https://www.iranintl.com/en/202405099101>

think.

THE HAGUE INITIATIVE
for INTERNATIONAL CO-OPERATION