

TO THE ATTENTION OF
HEADS OF STATE AND GOVERNEMENT
OF MEMBER STATES OF THE EUROPEAN UNION

**REPORT ON REGISTRATION CONDITIONS
OF THE ISLAMIC REVOLUTIONARY GUARDS CORPS
ON THE EUROPEAN UNION TERROR LIST¹**

pursuant :

Common Position 2001/931/CFSP of décembre 27th 2001
and Regulation (EC) No 2580/2001 of décembre 27th 2001

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¹ The original version of this report was written in French

REPORT ON REGISTRATION CONDITIONS
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I. ON THE CONDITIONS FOR PLACING A PERSON, ORGANISATION OR ENTITY ON THE EUROPEAN LIST OF TERRORIST ORGANISATIONS

Following the attacks on the World Trade Center towers in New York City on 11 September 2001, the international community expressed its intention to take all necessary measures to actively fight against international terrorism. The United Nations Security Council passed Resolution 1373 (1.). In order to facilitate its application on European territory, the European Union adopted Common Position 2001/931/CFSP (2.), the implementation of which involved the adoption of Regulation (EC) No 2580/2001 (3.), which is regularly updated.

1. United Nations Security Council Resolution 1373 (2001)

On 28 September 2001, the United Nations Security Council adopted Resolution 1373 (2001), setting out strategies to combat terrorism by all means, and in particular its financing. Point 1(c) of the resolution provides, inter alia, that all States shall:

"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 from property owned or controlled, directly or indirectly, by such persons and associated persons and entities;"

The resolution does not provide a list of names of persons to whom these restrictive measures are to be applied, but by its terms calls on all states to comply.

2. Common Position 2001/931/CFSP, 27 December 2001 on the application of specific measures to combat terrorism

At the level of the European Union, the implementation of UN Security Council Resolution 1373 (2001) led the Council of the European Union to adopt Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism.

The provisions of Article 1(1), (3), (4) and (6) of this Common Position state:

" 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.

[...]

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

- i. seriously intimidating a population, or*
- ii. unduly compelling a Government or an international organisation to perform or abstain from performing any act, or*
- iii. seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation:*
 - a) attacks upon a person's life, which may cause death;*
 - b) attacks upon the physical integrity of a person;*
 - c) kidnapping or hostage taking*
 - d) causing extensive destruction to a Governmental 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 which is not randomly formed for the immediate commission of a terrorist act and 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 purpose 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.

[...]

- 6. The names of the 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.*

3. Regulation (EC) No 2580/2001, 27 December 2001, on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

Since the application of the measures resulting from Common Position 2001/931/CFSP requires the adoption of implementation regulations, the Council of the European Union adopted 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. Article 2 of this Regulation provides:

"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;*

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.
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:
 - i. natural persons committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;
 - ii. legal persons, groups or entities committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;
 - iii. 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
 - iv. 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).

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Thus, these three statutes constitute the legal basis for listing a person, organisation or entity on the European list of terrorist organisations. We shall see below that, in the light of these statutes and the case law of the Court and the European Court of Justice, the Islamic Revolutionary Guard Corps meets the required conditions, so that European law cannot be an obstacle to listing.

II. ON THE CONDITIONS FULFILLED FOR THE INCLUSION OF THE ISLAMIC REVOLUTIONARY GUARD CORPS IN THE EUROPEAN LIST OF TERRORIST ORGANISATIONS

As required by the above-mentioned provisions of Common Position 2001/931/CFSP, the study of the Islamic Revolutionary Guard Corps confirms that it constitutes a structured organisation (1.) which has carried out terrorist attacks (2.) and which has been the subject of decisions by competent authorities (3.) which the Council of the European Union could take into account in order to proceed with its inclusion on the European list of terrorist organisations.

1. On the structured organisation of the Islamic Revolutionary Guard Corps

The Islamic Revolutionary Guard Corps (hereinafter "IRGC") was created on 5 May 1979, following a decree by Ayatollah Khomeini, Supreme Leader of the Islamic Republic of Iran². 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 country'*³, 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'*⁴.

The Constitution 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.

² 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/>

³ Constitution of the Islamic Republic of Iran - Article 143

⁴ Constitution of the Islamic Republic of Iran - Article 150

In the same vein, the preamble of the Constitution 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*"⁵).

Its supreme commander⁶ is the Supreme Leader of the Islamic Republic⁷ and its functioning is defined by the Constitution of the Guardians of the Revolution promulgated on 7 September 1982. In accordance with the provisions of Article 150 of the Constitution of the Islamic Republic, Article 1 of the 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 through cooperation with other armed forces and through military drills and the organisation of people's forces*"⁸.

Section 3, composed of articles 12 to 49 of the Constitution of the Revolutionary Guards, brings together all the provisions establishing its organisation and functioning.

The IRGC is thus organised 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 missions⁹.
- 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 missions¹⁰.
- 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 veto¹¹.

The Constitution of the Revolutionary Guards determines the operating mode for all the institutions and units formed, ensuring a vertical transmission of information and decisions, so that the Supreme Leader of the Islamic Republic, Commander-in-Chief of the Revolutionary Guards, can take all decisions.

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Accordingly, the IRGC fulfils all the conditions necessary to identify it as a structured association within the meaning of Article 1(4) of Common Position 2001/931.

The existence of a constitution and a scrupulously elaborated hierarchy, with institutions to which precise missions are assigned, characterises the notion of a "structured association" required by the above-mentioned provisions. The IRGC is thus 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".

⁵ Constitution of the Islamic Republic of Iran - Preamble: "*The Ideological Army - In the organization 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 organised 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 (Prepare against 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).*"

⁶ Constitution of the Guardians of the Revolution - Article 12

⁷ Constitution of the Islamic Republic of Iran - Article 110

⁸ 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://irandataportal.syr.edu/constitution-of-the-revolutionary-guards-3>

⁹ Constitution of the Revolutionary Guards - Article 15 et seq.

¹⁰ Constitution of the Guardians of the Revolution - Article 16 et seq.

¹¹ Constitution of the Revolutionary Guards - Article 18

2. On the acts of terrorism committed by the Islamic Revolutionary Guard Corps

The provisions of Article 1(3) of Common Position 2001/931 stipulate that:

- "3. For the purposes of this Common Position, "terrorist act" shall mean one of the following intentional acts, which, given its nature or its context, may seriously damage a country or an international organisation, as defined as an offence under national law, where committed with the aim of:
- i. seriously intimidating a population, or
 - ii. unduly compelling a Government or an international organisation to perform or abstain from performing any act, or
 - iii. seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation:
 - a) attacks upon a person's life which may cause death;
 - b) attacks upon the physical integrity of a person;
 - c) kidnapping or hostage taking;
 - d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;
 - e) seizure of aircraft, ships or other means of public or goods transport;
 - f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives, or of nuclear, biological or chemical weapons, as well as research into and development of biological and chemical weapons,
 - g) release of dangerous substances, or causing fires, explosions or floods, the effect of which is to endanger human life;
 - h) interfering with or disrupting the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;
 - i) threatening to commit any of the acts listed under (a) to (h);
 - j) directing a terrorist group;
 - k) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge that such participation will contribute to the criminal activities of the group.

As the European Union does not have the means to conduct investigations itself to identify persons involved in terrorist acts, European case law requires a prior decision by a national authority that establishes "*the existence of serious and credible evidence or indications of the involvement of the person concerned in terrorist activities, considered as reliable by the national authorities and having led them to take, at the very least, investigative measures*"¹².

¹² Joined Cases T-316/14 RENV AND T-148/19 - PKK v. COUNCIL - Judgment of 30 November 2022: "37 This obligation on the part of the Council to rely as much as possible on the assessment of the competent national authority notably concerns national sentencing decisions taken into account at the time of the initial entry under Article 1(4) of Common Position 2001/931. More particularly, it is not for the Council to verify the reality or imputation of the facts set out in the national convictions on which an initial entry was based. Indeed, such an obligation of verification imposed on the Council with regard to the facts underlying a national decision having founded an initial entry on the freeze lists would be a definite blow to the two-tier system characterising said Common Position, since the Council's assessment as to the materiality of those facts would be likely to conflict with the assessment and findings made by the national authority concerned, and such a conflict would be all the more inappropriate since the Council does not necessarily have at its disposal all the factual data and evidence contained in the file of that authority (...)." "

The IRGC, in its mission to defend the ideology of the Islamic Republic and export it beyond the borders of Iran, has planned and executed numerous operations aimed at assassinating Iranian opposition figures. It also carried out attacks against foreign personalities and institutions that the Islamic Republic considered at the time as enemies or contrary to its interests.

It should be recalled here that, although some of the individuals arrested and prosecuted were not directly from the IRGC, they were nevertheless affiliated with it by virtue of the orders and means made available to them to carry out their crimes.

The following list includes a number of acts committed on behalf of the Islamic Republic, with the involvement of the IRGC:

- i.* **Attempted assassination of Shahpour Bakhtiar:** On 18 July 1980, the last Prime Minister of the Shah of Iran, Shahpour Bakhtiar, was the subject of an assassination attempt carried out by four individuals¹³, including Anis Naccache and an Iranian, Mehdi Nejazi¹⁴, a member of the IRGC¹⁵.
- ii.* **Assassination of Shahriar Shafiq:** On 7 December 1979, Captain Shahriar Shafiq, nephew of the Shah of Iran, was assassinated in Paris by a man sent by the Islamic Republic. Ayatollah Khalkhali, head of the revolutionary courts, declared that Shahriar Shafiq had been executed by soldiers of the "Fedayeen of Islam"¹⁶. On 29 March 1982, the Islamic Republic's government newspaper announced the death of "*Seyed Abdollah Borghe'i, a staunch activist of the Party of God in the city of Qom, who made tireless efforts to combat counter-revolutionary groups and to remove liberals from the political scene. He was one of those who executed Shahriar Shafiq, the Shah's nephew, in Paris, shooting him twice and leaving the scene without a trace*"¹⁷.
- iii.* **Assassination of Ali Akbar Tabatabaei:** On 22 July 1980, David Belfield, an American convert to Shiite Islam under the name Dawud Salahuddin, assassinated Ali Akbar Tabatabaei, former press agent at the Iranian Embassy in the United States, in Bethesda, Maryland. He had been recruited by Iranian agents¹⁸.
- iv.* **Kidnapping of David Stuart Dodge:** On 19 July 1982, David Stuart Dodge, President of the American University of Beirut, was kidnapped on the orders of the IRGC, in response to the arrest of four officials from the Iranian Embassy in Beirut by the Lebanese Phalangist militias, among them Ahmad Motevaselian, IRGC commander in Baalbek Mohsen Rafiqdust, a member of the IRGC, was supervising the transfer of David Stuart Dodge from Beirut to Tehran¹⁹.
- v.* **Attack on the US Embassy in Beirut:** On 18 April 1983, a suicide car bomb hit the US Embassy in Beirut, killing 63 people, including 32 Lebanese and 17 Americans.
- vi.* **Attacks on US Marines in Beirut:** On 23 October 1983, US Marines stationed in Beirut were targeted by a bomb attack. In a speech transcribed by the Iranian newspaper Resalat on 20 July 1987, Mohsen Rafiqdoust, then Minister of the

¹³ https://www.lemonde.fr/archives/article/1980/07/19/bull-un-commando-tente-d-assassiner-m-bakhtiar-a-neuilly-une-femme-et-un-policier-tues-trois-agresseurs-arretes-bull-le-parlement-inaugure-sa-legislature-a-teheran_3069924_1819218.html

¹⁴ <https://www.humanite.fr/liberation-danis-naccache-8258>

¹⁵ https://www.lexpress.fr/monde/proche-moyen-orient/barbouzes-contre-barbus-un-iranien-a-la-cia_1547070.html

¹⁶ Islamic terrorist organisation founded in 1946, involved in the assassination of several personalities including the writer Ahmad Kasravi, Prime Minister Abdolhossein Hajir and Prime Minister Haj Ali Razmara. The Shah of Iran was also targeted in a failed attempt in 1949. Further attempts were made on Foreign Minister Hossein Fatemi and Prime Minister Hossein Ala.

¹⁷ Abdorrahman Boroumand Center - <https://www.iranrights.org/memorial/story/-7088/shahriar-shafiq>

¹⁸ <https://www.washingtoninstitute.org/policy-analysis/contending-irgc-plots>

<https://www.newyorker.com/magazine/2002/08/05/an-american-terrorist>

¹⁹ Iran's revolutionary guard, the threat that grows while America sleeps - Steven O'Hern, Potomac Books, 2012

IRGC, accepted IRGC's responsibility for the attack. He said: "*In the victory of the revolution in Lebanon... the United States felt our strength on their hideous body; and they know well that the TNT and the ideology that in one explosion sent to hell 400 officers, non-commissioned officers and soldiers of the Marine Corps headquarters were supplied by Iran*"²⁰.

- vii. **Attack on the US Embassy in Beirut:** On 20 September 1984, a car bomb exploded outside an annex building of the US Embassy in Aoukar, north of Beirut, killing 23 people and injuring about 60 others, including the US and British ambassadors. According to David Martin from CBS News and John Walcott from the Wall Street Journal, authors of *Best Laid Plans: The Inside Story of America's War Against Terrorism*, satellite images of the IRGC in the lead-up to the attack on the US Embassy annex building on 20 September 1984²¹.
- viii. **Assassination of General Oveissi:** On 7 February 1984, General Gholam Ali Oveissi and his brother Gholam Hossein were assassinated in Paris by members of Hezbollah, operating under the name of Islamic Jihad²².
- ix. **Wave of attacks in Paris, 1985 and 1986:** In 1985-1986, numerous terrorist attacks hit France. The role of Hezbollah, acting under the name of CSPPA ("*Committee of Solidarity with Arab and Middle Eastern Political Prisoners*") was highlighted. Among these attacks, the following should be noted
- 23 February 1985, Marks & Spencer shop: 1 dead, 14 injured;
 - 9 March 1985, Rivoli Beaubourg movie theatre, 18 injured;
 - on 7 December 1985, double attack on Galeries Lafayette and Printemps Haussmann, 43 injured;
 - on 03 February 1986, Claridge hotel, 8 injured;
 - 4 February 1986, Gibert Jeune shop, 5 injured; FNAC Sport in the Forum des Halles, 22 injured;
 - on 17 March 1986, a bomb in the Paris-Lyon TGV train near Brunoy, 29 injured;
 - 8 September 1986, post office at the Hôtel de Ville in Paris, 1 dead and 21 injured;
 - 12 September 1986, Casino supermarket cafeteria in La Défense, 54 injured;
 - on 14 September 1986, Pub Renault on the Champs-Élysées, 2 policemen and 1 maître d'hôtel were killed when they detected the explosive device;
 - 15 September 1986, premises of the driving licence services of the Préfecture de Police, 1 dead and 56 injured;
 - 17 September 1986, Tati shop in Rue de Rennes, 7 dead and 55 injured.
- x. **Assassination of Abdul Rahman Ghassemlou:** on 13 July 1989, Abdul Rahman Ghassemlou, Secretary General of the Democratic Party of Iranian Kurdistan, was assassinated in Vienna, Austria. Among the three men implicated, who were later released but still suspected of being the perpetrators of this assassination, were Mohammed Jafar Sahraroudi and Hadji Moustafawi and Amir Mansour Bozorgian, close to the IRGC.
- xi. **Assassination of Shahpour Bakhtiar:** On 6 August 1991, the last Prime Minister of the Shah of Iran, Shahpour Bakhtiar, was assassinated by the Islamic Republic of Iran. Ali Vakili Rad and Massoud Hendi were convicted and sentenced on 6

²⁰ https://www.huffpost.com/entry/mr-secretary-be-true-to-y_b_3165448

²¹ David Martin and John Walcott - *Best Laid Plans: The Inside Story of America's War Against Terrorism*

²² Courthouse News Services - Big Award for Grandson of Assassinated General - 26 July 2012:

<https://www.courthousenews.com/big-award-for-grandson-of-assassinated-general/>

December 1994 to life imprisonment. Ali Vakili Rad was also known to be an important member of VEVAK, the intelligence service of the Islamic Republic of Iran, and, according to the public prosecutors, he had previously been employed by the office of security forces and remained attached to the IRGC's Qods Force at the time of the assassination.

- xii. **Mykonos Restaurant Assassinations:** On 17 September 1992, the leaders of the Iranian Kurdish opposition to the Islamic Republic regime - Sadegh Sharafkandi, Fattah Abdoli and Homayoun Ardalani, and their translator Nouri Dehkordi - were assassinated in Berlin's Mykonos Restaurant. According to Abolghasem Mesbahi, a former member of the Iranian security services who defected, the operation was allegedly planned by President Hashemi Rafsanjani, Intelligence Minister Ali Fallahiyani, Foreign Minister Ali Akbar Velayati, and Supreme Leader Ali Khamenei, Commander-in-Chief of the Revolutionary Guards. Also involved was Kazem Darabi, in charge of the logistics of the operation and a former member of the IRGC and Hezbollah. He was arrested and sentenced to life imprisonment.
- xiii. **Attack on AMIA in Argentina:** On 18 July 1994, the Argentine Israelite Mutual Association was the victim of an attack sponsored by the IRGC, causing the death of 84 people. The then IRGC commander, Mohsen Rezaei, is still the subject of an extradition request by Argentina and an Interpol Red Notice.
- xiv. **Attempted assassination of the Saudi ambassador to Washington:** In October 2011, Manssor Arbabsiar and Gholam Shakuri were charged with planning an attack to assassinate the Saudi ambassador to the US. Ali Gholam Shakuri was Vice Commander of the IRGC's Al-Quds Force. Also involved were Hamed Abdollahi, Commander of the IRGC Al-Quds Force and Abdul Reza Shahlai, Deputy Commander of the IRGC Al-Quds Force. A legal action was brought²³. At the end of these proceedings, Manssor Arbabsiar was sentenced to 25 years' imprisonment (Gholam Shakuri could not be arrested)²⁴.
- xv. **Thwarted attack on the Israeli Embassy in Kenya:** In June 2022, Ahmad Abolfathi Mohammad and Sayed Mansour Mousavi were arrested and convicted in May 2013 of attempting to commit an attack on the Israeli Embassy in Kenya. The Prosecutor indicated that they were members of the IRGC's Al-Quds Force.
- xvi. **Attempted assassination of Israeli tourists in Thailand:** On 18 July 2012, 5 Israeli tourists and 1 Bulgarian bus driver were killed in a suicide attack and over 30 people were injured. Avigdor Lieberman, Israeli Foreign Minister, denounced the involvement of Hezbollah acting under the command of the IRGC²⁵.
- xvii. **Attempted assassination of Bernard-Henri Levy:** On 1 December 2022, the Washington Post reported that French writer and philosopher Bernard Henri Levy had been the subject of an assassination attempt sponsored by the Islamic Republic of Iran. A drug trafficker was reportedly paid 150,000 euros to carry out the assassination²⁶.

²³ Department of Justice, Office of Public Affairs, 11 October 2011 - Two Men Charged in Alleged Plot to Assassinate Saudi Arabian Ambassador to the United States - <https://www.justice.gov/opa/pr/two-men-charged-alleged-plot-assassinate-saudi-arabian-ambassador-united-states>

²⁴ Department of Justice, Office of Public Affairs, 30 May 2013 - <https://www.justice.gov/opa/pr/manssor-arbabsiar-sentenced-new-york-city-federal-court-25-years-prison-conspiring-iranian>

²⁵ https://www.gov.il/en/Departments/General/terror_attack_israeli_tourists_bulgaria_18-jul-2012

²⁶ The Washington Post, 1 December 2022 - Rise in Iranian assassination, kidnapping plots alarms Western officials - <https://www.washingtonpost.com/world/2022/12/01/iran-kidnapping-assassination-plots/>

- xviii. **Attempted assassination of John Bolton:** On 10 August 2022, Shahram Poursafi, aka Mehdi Rezayi, a member of the IRGC, was indicted by the US Attorney for the District of Columbia for plotting the assassination of John Bolton, President Donald Trump's National Security Advisor.

He planned to pay individuals \$300,000 to carry out the assassination plan. Legal proceedings are still pending²⁷.

- xix. **Attempted assassination of Masih Alinejad:** On 27 January 2023, three men were charged with planning to assassinate journalist Masih Alinejad²⁸. Attorney General Merrick Garland linked the attempt to warnings issued by Islamic Republic officials to Iranians who send videos to Alinejad²⁹. A legal action is still pending³⁰.

- xx. **Attempted assassination of Salman Rushdie:** On 12 August 2022, the Indo-British writer Salman Rushdie was the victim of an attempted murder committed by an American of Lebanese origin, pursuant to a fatwa issued by Ayatollah Khomeini on 14 February 1989.

This list shows that the IRGC is actively involved in actions of a terrorist nature and that its involvement in this type of action is not confined to a specific period of time, which has now passed.

It also shows that, since the birth of the Islamic Republic, legal proceedings have been initiated against members of the IRGC and have revealed "*serious and credible evidence or clues*" of their involvement "*in terrorist activities, considered reliable by the national authorities and leading them to take, at the very least, investigative measures*"³¹.

In this sense, the condition laid down in Article 1(4) of Common Position 2001/931/CFSP requiring "*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*", is fulfilled: competent authorities have taken decisions to prosecute or convict

²⁷ Department of Justice, Office of Public Affairs, 10 August 2022 - Member of Iran's Islamic Revolutionary Guard Corps (IRGC) Charged with Plot to Murder the Former National Security Advisor - <https://www.justice.gov/opa/pr/member-irans-islamic-revolutionary-guard-corps-irgc-charged-plot-murder-former-national>

²⁸ CBS NewYork - 27 January 2023, 3 charged in plot to kill Iranian-American author Masih Alinejad in New York City - <https://www.cbsnews.com/newyork/news/masih-alinejad-murder-plot-new-york-city-charges/>

²⁹ CBS NewYork - January 27, 2023, 3 charged in plot to kill Iranian-American author Masih Alinejad in New York City: "*The victim publicized the Iranian government's human rights abuses, discriminatory treatment of women, suppression of democratic participation and expression and use of arbitrary imprisonment, torture and execution,*" Garland said. In 2019, "*this activity posed such a threat to the government of Iran that the chief judge of Iran's Revolutionary courts warned that anyone who sent videos to the victim criticizing the regime would be sentenced to prison.*"

³⁰ Department of Justice, Office of Public Affairs, 27 January 2023 - Justice Department Announces Charges and New Arrest in Connection with Assassination Plot Directed from Iran -- <https://www.justice.gov/opa/pr/justice-department-announces-charges-and-new-arrest-connection-assassination-plot-directed>

³¹ Joined Cases T-316/14 RENV AND T-148/19 - PKK v. COUNCIL - Judgment of 30 November 2022: "*37 This obligation for the Council to rely as much as possible on the assessment of the competent national authority primarily relates to national sentencing decisions taken into account at the time of the initial entry under Article 1(4) of Common Position 2001/931. More particularly, it is not for the Council to verify the reality or imputation of the facts set out in the national convictions on which an initial entry was based. Indeed, such an obligation of verification imposed on the Council with regard to the facts underlying a national decision on which an initial entry on the freeze lists is based would be a definite blow to the two-tier system characterising said Common Position, since the Council's assessment of the materiality of those facts would be likely to conflict with the assessment and findings made by the national authority concerned, and such a conflict would be all the more inappropriate since the Council does not necessarily have at its disposal all the factual data and evidence contained in the file of that authority (...).*"

members of the IRGC for their involvement in terrorist attacks, both in the past and very recently, including in the cases of Adel Al-Jubeir³², Masih Alinejad³³ and John Bolton³⁴.

For all intents and purposes, it should also be recalled that:

- In January 2023, General Hossein Salami, Commander-in-Chief of the IRGC, threatened the newspaper Charlie Hebdo with reprisals following the publication of cartoons of the Supreme Leader of the Islamic Republic Ali Khamenei - highlighting the IRGC's links with terrorism³⁵.
- The Iran International TV channel, which covers Iranian news without any censorship, closed its London office in February 2023³⁶ on the advice of the British security services,
- Iranian citizens living abroad are victims of threats and intimidation from the security services of the Islamic Republic of Iran³⁷.

These facts show that the IRGC continues to actively maintain a link with international terrorism as a means to defend its interests.

3. On the existence of decisions taken against the IRGC by judicial and/or competent authorities within the meaning of Article 1(4) of Common Position 2001/931

3.1. On the conditions governing the inclusion of the Islamic Revolutionary Guard Corps on the European list of terrorist organisations

There is no difficulty with the concept of judicial authority. This is an authority which initiated legal proceedings or issued judicial sentences. The issue is the reasonable character of legal proceedings guaranteed by respect for the rights of the defence. We have shown above that this condition was met with old cases but also the more recent cases of Adel Al-Jubeir³⁸, Masih Alinejad³⁹ or John Bolton⁴⁰.

On the other hand, the notion of competent authority, admittedly defined by Common Position 2001/931, needs to be studied. And we will see that, in addition to the judicial decisions already mentioned, decisions from competent authorities, favouring the inclusion of the IRGC on the European list of terrorist organisations, have been taken against it.

³² Department of Justice, Office of Public Affairs, 30 May 2013 - <https://www.justice.gov/opa/pr/manssor-arbabsiar-sentenced-new-york-city-federal-court-25-years-prison-conspiring-iranian>

³³ Department of Justice, Office of Public Affairs, 27 January 2023 - Justice Department Announces Charges and New Arrest in Connection with Assassination Plot Directed from Iran -- <https://www.justice.gov/opa/pr/justice-department-announces-charges-and-new-arrest-connection-assassination-plot-directed>

³⁴ Department of Justice, Office of Public Affairs, 10 August 2022 - Member of Iran's Islamic Revolutionary Guard Corps (IRGC) Charged with Plot to Murder the Former National Security Advisor - <https://www.justice.gov/opa/pr/member-irans-islamic-revolutionary-guard-corps-irgc-charged-plot-murder-former-national>

³⁵ <https://www.thetimes.co.uk/article/iran-warns-charlie-hebdo-of-similar-fate-to-salman-rushdie-95rjsjt8g>

³⁶ <https://www.letemps.ch/monde/suite-menaces-une-chaine-television-iranienne-independante-ferme-bureaux-londoniens>

³⁷ <https://www.rfi.fr/fr/moyen-orient/20230109-ils-font-tout-pour-nous-faire-taire-la-diaspora-iranienne-face-aux-pressions-du-regime> - https://www.bfmtv.com/international/amerique-nord/canada/les-renseignements-canadiens-enquetent-sur-des-menaces-de-mort-venues-du-regime-iranien_AD-202211190067.html

³⁸ Department of Justice, Office of Public Affairs, 30 May 2013 - <https://www.justice.gov/opa/pr/manssor-arbabsiar-sentenced-new-york-city-federal-court-25-years-prison-conspiring-iranian>

³⁹ Department of Justice, Office of Public Affairs, 27 January 2023 - Justice Department Announces Charges and New Arrest in Connection with Assassination Plot Directed from Iran -- <https://www.justice.gov/opa/pr/justice-department-announces-charges-and-new-arrest-connection-assassination-plot-directed>

⁴⁰ Department of Justice, Office of Public Affairs, August 10, 2022 - Member of Iran's Islamic Revolutionary Guard Corps (IRGC) Charged with Plot to Murder the Former National Security Advisor - <https://www.justice.gov/opa/pr/member-irans-islamic-revolutionary-guard-corps-irgc-charged-plot-murder-former-national>

3.1.1. On the notion of competent authority, within the meaning of Article 1(4) of Common Position 2001/931

Article 1(4)(2) of Common Position 2001/931 provides that:

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.

The question is whether the decisions taken by competent authorities required for the listing of the IRGC on the EU list of terrorist organisations should be judicial decisions and whether they should be taken within or outside the European Union.

Firstly, it should be noted that Article 1(4) of Common Position 2001/931 does not provide that the terrorist nature of a person, group or entity must be established by a judicial authority. Had this been the case, Common Position 2001/931 would have required a decision by a "judicial" authority only, not the possibility of a decision by a "competent" authority. It stipulates indeed: *"a judicial authority, or, where judicial authorities have no competence in the area covered by this paragraph, an equivalent competent authority in that area."*⁴¹ (40)

The judicial authority may thus be substituted for by another authority in the event that domestic law does not assign to its judicial authority the task of deciding on the terrorist character of an organisation. Thus, it can be noted that *"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"*, thus without their having been the subject of judicial proceedings.

Secondly, the notion of *"decision taken by a competent authority"* does not necessarily mean a decision taken by an authority in an EU Member State. In such a case, Common Position 2001/931 would have specified this. It should be recalled that this 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.

The competent authority referred to in Article 1(4) of Common Position 2001/931 therefore does not require that the authority be located in a Member State of the European Union.

Case law of the European courts supports this.

Indeed,

- i. **In a case involving the Kurdish Workers' Party PKK**⁴², the latter challenged its inclusion on the European list of terrorist organisations, denouncing the fact that the

⁴¹ Common Position 2001/931/CFSP - Article 1(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 with regard to 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 purpose of this paragraph, "competent authority" means a judicial authority, or, where judicial authorities have no competence in the area covered by this paragraph, an equivalent competent authority in that area."*

⁴² Case. C-46/19 P - COUNCIL vs. PKK

Council of the European Union relied on three national decisions, namely a British decision and two American decisions⁴³:

- the UK decision was taken on 29 March 2001 by the Secretary of State for the Home Department (UK Home Secretary), on the basis of the UK Terrorism Act 2000⁴⁴, as supplemented by a decision adopted on 14 July 2006, which came into force on 14 August 2006. In this decision, the Home Secretary, having regard to the PKK's commission of and participation in acts of terrorism, banned the PKK as an organisation involved in acts of terrorism;
- the 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 organisation*" under Section 219 of the US Immigration and Nationality Act⁴⁵ and, on the other hand, the decision designating the PKK as a "*pecially designated global terrorist organisation*" under Executive Order 13224⁴⁶.

In this case, the PKK considered that, with regard to the UK decision, the Council had not explained in the explanatory memoranda to the 2014 acts⁴⁷ why it had considered that the national decisions on which the initial listing of the PKK's name had been based constituted "*decisions from competent authorities*" within the meaning of Article 1(4) of Common Position 2001/931 and that these decisions related to "*terrorist acts*" within the meaning of Article 1(3) of that Common Position⁴⁸.

To this, the Court of Justice of the European Union replied that "*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 among other things and to enable the Court to exercise its control in that regard*"⁴⁹.

Two conclusions can be drawn from this decision: concerning the concept of competent authority and concerning the jurisdiction of this competent authority:

- As regards the concept of competent authority, the Court ruled in favour of the Council and recognised the decision taken by the UK Home Office as a decision from a competent authority, as required by the text of Common Position 2001/931/CFSP - Article 1(4),

⁴³ Case. C-46/19 P - COUNCIL vs. PKK: "*Under these circumstances, the Council considered that the three national decisions referred to in the two preceding points had been adopted by 'competent authorities' within the meaning of Article 1(4) of Common Position 2001/931. The Council further noted that these three national decisions remained in force and considered that the reasons for the original listing of the PKK remained valid.*"

⁴⁴ United Kingdom Terrorism Act 2000

⁴⁵ United States Immigration and Nationality Act

⁴⁶ Presidential Decree No.13 224

⁴⁷ Implementing Regulation (EU) No 125/2014 of the Council, 10 February 2014, implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) No 714/2013 (OJ 2014, L 40, p. 9); COUNCIL / PKK; Implementing Regulation (EU) No 790/2014 of the Council, 22 July 2014, implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulation No 125/2014 (OJ 2014 L 217, p. 1)

⁴⁸ Case. C-46/19 P - COUNCIL vs. PKK: "41. *The PKK claims that the third and fifth pleas in law should be rejected. In its view, the Court rightly considered that the Council was required to set out, in the explanatory memoranda to the 2014 acts, the reasons why it considered that the national decisions on which the initial registration of its name was based constituted 'decisions from competent authorities' within the meaning of Article 1(4) of Common Position 2001/931, and that those decisions related to 'acts of terrorism' within the meaning of Article 1(3) of that Common Position.*"

⁴⁹ 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.*"

- As regards the jurisdiction of this competent authority, the fact that two US decisions were relied upon by the Council was not denounced as not being within the competence of a Member State.

In other words, the competent authority under Article 1(4) of Common Position 2001/931 does not necessarily have to fall within the competence of a Member State of the European Union.

- ii. **In a case involving the *Liberation Tigers of Tamil Eelam***, the Council, in order to include this organisation on the European list of terrorist organisations, relied on two decisions taken by the United Kingdom of Great Britain and Northern Ireland in 2001, banning and freezing the funds of the LTTE, as well as a decision adopted in 1992 by the Indian authorities, banning the LTTE, confirmed in 2004.

The Council had recognised their status as competent authorities within the meaning of Article 1(4) of Common Position 2001/931, on the ground that they were regularly reviewed or subject to review or appeal.

However, for the Indian decision, the Court considered that the Council had not ensured that the rights of the defence were respected, so that "*it is not clear from the reasons behind these regulations whether the Council has fulfilled its obligation of verification in this respect*"⁵⁰. This principle is consistent, as it was already stated in a judgment from the Court of First Instance concerning the People's Mujahedin Organization of Iran⁵¹.

From this decision, two conclusions can also be drawn concerning the notion of competent authority and concerning the jurisdiction of that competent authority:

- With regard to the notion of competent authority, this does not necessarily imply that it is a judicial authority,
- Regarding the jurisdiction of the competent authority, the decision taken by the Indian authorities was not challenged because India is not a EU Member State but because the rights of the defence were not guaranteed.

It should be recognised here that the inclusion of a person, entity or organisation on the European list of terrorist organisations does not require a decision by a competent authority within the jurisdiction of an EU Member State.

- iii. **In a procedure concerning the Palestinian organisation *HAMAS***, the Council used as a basis for its inclusion a decision of the Secretary of State for the Home Department of the United Kingdom on 29 March 2001, and three decisions adopted by the authorities of the United States of America on 23 January 1995, 8 October 1997 and 31 October 2001 as decisions of competent authorities within the meaning of Article 1(4) of Common Position 2001/931⁵².

⁵⁰ Case C-599/14 P C-599/14 P - COUNCIL vs. LTTE: "35. Neither Implementing Regulations No 83/2011, 687/2011, 1375/2011, 542/2012, 1169/2012, 714/2013 and 125/2014 nor Implementing Regulation No 790/2014 mention any element showing that the Council verified whether the decision of the Indian authorities was adopted with due regard for the rights of the defence and the right to effective judicial protection. The reasoning of these regulations therefore does not make it possible to know whether the Council has fulfilled its obligation of verification in this respect."

⁵¹ Case. T-228/0 - COUNCIL vs. OPMI: "The rights of the person concerned to be defended must first of all be actually guaranteed in the context of the national procedure which led to the adoption, by the competent national authority, of the decision referred to in Article 1(4) of Common Position 2001/931. It is essentially within that national framework that the person concerned must be given the opportunity to make his views known in a meaningful way on the basis of the evidence on which the decision in question is based, subject to any restrictions on the rights of the defence which are legally justified under national law, in particular on grounds of public order, public security or maintenance of international relations (see, to that effect, judgment from the European Court of human rights: *Tinnelly & Sons and Others and McElduff and Others vs. the United Kingdom*, 10 July 1998, Reports of Judgments and Decisions, 1998-IV, § 78).

⁵² Case. C-833/19 P, COUNCIL vs. HAMAS: "18. This explanatory statement shows that, in order to maintain Hamas on these lists, the Council relied, on the one hand, on a decision from the Secretary of State for the Home Department of the United

Applying the Court's case-law, HAMAS did not challenge the applicability of the concept of competent authority to the British and American authorities, although they were not judicial authorities, and did not denounce the use of the three American decisions on the grounds that they were not within the jurisdiction of a Member State of the European Union.

The Court also stated that the Council's acts were based on a number of decisions by competent authorities⁵³.

*

It thus follows from the terms of Common Position 2001/931, case law of the Court of Justice of the European Union and the arguments of the parties filing an appeal against the Council's decisions that:

- a decision taken by a government constitutes a decision from a competent authority, in accordance with the provisions of Article 1(4) of Common Position 2001/931
- a decision taken by an authority of a State which is not a member of the European Union cannot be in conflict with the provisions of Article 1(4) of Common Position 2001/931.

3.1.2. On the review of the names on the EU list of terrorist organisations

Article 1(6) of Common Position 2001/931 stipulates that:

"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."

The periodical review of this list ensures that organisations that no longer fulfil the conditions set out in Common Position 2001/931 can be removed from the EU list of terrorist organisations, and thus are no longer subject to related sanctions.

The Court of the European Union has clarified the conditions for assessing the information subject to the review as provided in the aforementioned article and states in particular that:

- *It is clear from the case-law of both the Court of Justice and the Court of the EU⁵⁴ that the existence of an armed conflict within the meaning of international humanitarian law does not preclude the application of the provisions of EU law on the prevention of terrorism, such as Common Position 2001/931, to possible acts of terrorism committed in that context⁵⁵.*

Kingdom of 29 March 2001 (hereinafter the "2001 Home Secretary's decision") and, on the other hand, on three decisions adopted by the authorities of the United States of America on 23 January 1995, 8 October 1997 and 31 October 2001 (hereinafter the "United States authorities' decisions"). In the main part of the Explanatory Memorandum, the Council stated, after examining the information contained in these national decisions separately, that each of them provided sufficient grounds for listing Hamas. In this respect, the Council stated that these same national decisions were decisions from competent authorities within the meaning of Article 1(4) of Common Position 2001/931 and that they were still in force. He then stressed that the reasons for including Hamas on the same lists remained valid and that it was therefore appropriate to maintain its name on them."

⁵³ Case. C-833/19 P, COUNCIL vs. HAMAS: "39. Indeed, as is clear from paragraph 77 of the judgment under appeal, which is not challenged by the Council in its appeal, Article 1(4) of Common Position 2001/931, according to which a decision must have been taken by a competent authority in respect of the persons, groups and entities referred to, does not require the Council's acts to be based on a plurality of decisions by competent authorities."

⁵⁴ Case. C-158/14 - Judgment of 14 March 2017, paragraphs 97 and 98; Case T-160/19 - LTTE vs. Council - Judgment of 24 November 2021, paragraph 294

⁵⁵ Joined Cases T-316/14 RENV and T-148/19 - P KK vs. Council - Judgment of 30 November 2022

- *"Without taking a position on its application in this case, nor further on the legality of the use of armed force to achieve self-determination, it must be considered that this principle does not imply that, for the exercise of the right to self-determination, a people or the inhabitants of a territory may resort to means falling within the scope of Article 1(3) of Common Position 2001/931⁵⁶."*⁵⁷
- *"the Court has already had the opportunity to hold that an exception to the prohibition of acts of terrorism in armed conflicts for the benefit of liberation movements engaged in an armed conflict against an "oppressive government" has no basis in EU law, or even in international law."⁵⁸*

Conversely, in another judgment⁵⁹, and in order to grant the request for annulment of Decision 2007/868 taken by the Council of the European Union, the Court found that the group concerned had ceased to engage in acts of terrorism since 2001⁶⁰, that it no longer had a command structure⁶¹, that it had been disarmed⁶², and that it had not sought to reconstitute a military capacity⁶³ or to train its members to carry out military or terrorist actions⁶⁴.

3.2. On decisions taken by competent authorities against the Islamic Revolutionary Guard

In addition to the decisions relating to the prosecution and conviction of the attempted assassinations of Adel Al-Jubeir⁶⁵, Masih Alinejad⁶⁶ and John Bolton⁶⁷, which are judicial decisions which, although taken in non-EU member states, can be brought forward by the Council of the European Union to place the IRGC on its list of terrorist organisations, we propose below a review of decisions taken by competent authorities against the IRGC and/or some of its members:

⁵⁶ Case. T-308/18 - Hamas vs. Council - Judgment of 4 September 2019, paragraph 218; Case T-160/19 - LTTE vs. Council - Judgment of 24 November 2021, paragraph 299

⁵⁷ Joined Cases T-316/14 RENV and T-148/19 - PKK vs. Council - Judgment of 30 November 2022

⁵⁸ Joined Cases T-316/14 RENV and T-148/19 - PKK vs. COUNCIL - Judgment of 30 November 2022: The judgment also states that *"The provisions of international law, more particularly United Nations Security Council Resolution 1373 (2001) of 28 September 2001, the Geneva Convention relating to the Protection of the Civilian Population in Time of War of 12 August 1949, Additional Protocols I and II to the Geneva Conventions of 8 June 1977, relating to the Protection of Victims of International and Non-International Armed Conflicts, and the International Convention for the Fight against the Financing of Terrorism, signed in New York City on 9 December 1999, make no distinction in their condemnation of acts of terrorism based on the status of the perpetrator of the act and the aims pursued by him (judgment of 16 October 2014, LTTE vs. Council, T-208/11 and T-508/11, EU: T:2014:885, paragraph 68)."*

⁵⁹ Case. T-256/07 - PMOI vs. COUNCIL - judgment of 23 October 2008

⁶⁰ Case. T-256/07 - PMOI vs. COUNCIL - judgment of 23 October 2008: "348.1 With the possible exception of the single incident in May 2002, the PMOI has not engaged in acts of terrorism in Iran or elsewhere since August 2001.

⁶¹ Case. T-256/07 - PMOI vs. COUNCIL - judgment of 23 October 2008: "348.2 Even if the PMOI may have had a military command structure in Iran at one time, the material shows that such a structure had ceased to exist by (at the latest) the end of 2002.

⁶² Case. T-256/07 - PMOI vs. COUNCIL - judgment of 23 October 2008: "348.4 In May 2003, the PMOI was disarmed.

⁶³ Case T-256/07 - PMOI vs. COUNCIL - judgment of 23 October 2008: "348.5 There is no material to indicate that the PMOI obtained or sought to obtain weapons or otherwise rebuild any military capability, despite its ability to do so after May 2003.

⁶⁴ Case T-256/07 - PMOI vs. COUNCIL - judgment of 23 October 2008: "348.5 Furthermore, there is no material to suggest that the PMOI would have sought to recruit or train its members for military or terrorist actions.

⁶⁵ Department of Justice, Office of Public Affairs, 30 May 2013 - <https://www.justice.gov/opa/pr/manssor-arbabsiar-sentenced-new-york-city-federal-court-25-years-prison-conspiring-iranian>

⁶⁶ Department of Justice, Office of Public Affairs, 27 January 2023 - Justice Department Announces Charges and New Arrest in Connection with Assassination Plot Directed from Iran -- <https://www.justice.gov/opa/pr/justice-department-announces-charges-and-new-arrest-connection-assassination-plot-directed>

⁶⁷ Department of Justice, Office of Public Affairs, 10 August 2022 - Member of Iran's Islamic Revolutionary Guard Corps (IRGC) Charged with Plot to Murder the Former National Security Advisor - <https://www.justice.gov/opa/pr/member-irans-islamic-revolutionary-guard-corps-irgc-charged-plot-murder-former-national>

i. European decisions. Article 1 of EU Council Implementing Regulation 2022/147⁶⁸ contains an annex listing the persons, entities and groups to which the provisions of Article 2(3) of Council Regulation (EC) No 2580/2001 of 27 December 2001 are to be applied.⁶⁹:

" 3. *The Council, acting unanimously, shall establish, review and amend the list of persons, groups and entities to which this Regulation applies, in accordance with the provisions of Article 1(4), (5) and (6) of Common Position [2001/931]. This list shall include:*

- i. natural persons committing, attempting to commit, participating in or facilitating the commission of a terrorist act;*
- ii. legal persons, groups or entities committing, attempting to commit, participating in or facilitating the commission of a terrorist act;*
- iii. legal persons, groups or entities owned or controlled by one or more natural or legal persons, groups or entities referred to in i) and ii) or*
- iv. 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).*

Among the persons, groups and entities included in this list, we can distinguish the following groups:

- the Directorate of Internal Security of the Iranian Ministry of Intelligence and Security: the intelligence arm of the government of the Islamic Republic of Iran,
- the military wing of Hezbollah⁷⁰, a Lebanese organisation founded, financed and armed by the Islamic Republic of Iran⁷¹,
- Palestinian Islamic Jihad, a Palestinian organisation founded, funded and armed by the Islamic Republic of Iran⁷²,
- Hamas, including "Hamas-Izz al-Din al-Qassem", a Palestinian organisation funded and armed by the Islamic Republic of Iran⁷³.

It is important to note the presence of non-Iranian organisations that are actively supported by the Islamic Republic of Iran, as it is through them that the IRGC can be led to carry out its operations outside Iranian territory. For example, it is well known that the Lebanese Hezbollah acts under the orders of the IRGC's Al-Quds force in Syria and that, in general, it follows an 'Iranian agenda'⁷⁴.

⁶⁸ Council's Implementing Regulation (EU) 2022/147, 3 February 2022, implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Implementing Regulation (EU) 2021/1188

⁶⁹ Council Regulation (EC) No 2580/2001, 27 December 2001, on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

⁷⁰ According to the terms of Council's Implementing Regulation (EU) 2022/147 of 3 February 2022: "*Hizballah Military Wing (also known as "Hezbollah Military Wing", "Hizballah Military Wing", "Hizballah Military Wing", "Hezbollah Military Wing", "Hisballah Military Wing", "Hizbu'llah Military Wing", "Hizb Allah Military Wing" and "Jihad Council" (and all units under its authority, including the External Security Organisation).*

⁷¹ <https://www.cairn.info/revue-les-cahiers-de-l-orient-2013-4-page-35.htm> - <https://www.choiseul-france.com/le-hezbollah-global-les-reseaux-secrets-de-liran/>

⁷² <https://www.lefigaro.fr/international/proche-orient-qu-est-ce-que-le-jihad-islamique-palestinien-frappe-par-l-armee-israelienne-20220806> - https://www.lexpress.fr/monde/gaza-qu-est-ce-que-le-jihad-islamique-dont-les-chefs-ont-ete-neutralises-par-israel_2178232.html - https://www.lemonde.fr/international/article/2022/08/09/contrement-au-hamas-le-jihad-islamique-n-a-aucune-velleite-d-exercice-du-pouvoir-politique_6137613_3210.html

⁷³ https://www.lemonde.fr/international/article/2021/05/18/le-savoir-faire-iranien-au-service-des-factions-palestiniennes-de-gaza_6080584_3210.html - <https://www.lorientlejour.com/article/1262848/lombre-de-liran-plane-sur-le-conflit-entre-le-hamas-et-israel.html> - <https://www.lapresse.ca/international/moyen-orient/2021-05-18/le-hamas-un-arsenal-abondant-avec-un-fort-soutien-de-l-iran.php>

⁷⁴ <https://www.lefigaro.fr/international/liban-le-pas-de-deux-d-emmanuel-macron-avec-le-hezbollah-20200831>

In addition to these organisations, the list includes individuals who are members of the Revolutionary Guards:

- **Mr Saeid Hashemi Moghadam:** Director of Internal Security of the Iranian Ministry of Intelligence and Security, implicated in the attempted terrorist attack on a group of exiled opponents at a rally in Villepinte in 2018,
- **Mr Hamed Abdollahi:** Commander of the IRGC's Al-Quds Force, accused of planning and coordinating the attempted assassination of Mr Adel al-Jubeir, Ambassador of the Kingdom of Saudi Arabia in the United States in 2011,
- **Mr Abdul Reza Shahlai:** Vice Commander of the IRGC's Al-Quds Force involved in acts of terrorism and in supporting terrorist organisations. He is accused of planning and coordinating the attempted assassination of Mr Adel al-Jubeir, Ambassador of the Kingdom of Saudi Arabia to the United States in 2011,
- **Mr Ali Gholam Shakuri,** Vice Commander of the IRGC's Al-Quds Force. He is accused of coordinating the attempted assassination of Mr Adel al-Jubeir, Ambassador of the Kingdom of Saudi Arabia in the United States in 2011,

Other Iranians, for whom IRGC membership has not been established but who are involved in acts planned and organised by the IRGC, are on the list. This is the case for:

- **Mr Manssor Arbabsiar:** an American-Iranian citizen who pleaded guilty to participating in the attempted assassination of Mr Adel al-Jubeir, Ambassador of the Kingdom of Saudi Arabia to the United States in 2011,
- **Mr Assadollah Asadi:** Iranian citizen involved in the planning and preparation of the failed attack on a group of exiled opponents at a rally in Villepinte in 2018.

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All these European decisions constitute decisions from competent authorities that the Council of the European Union could bring forward to extend the effects of Common Position 2001/931/CFSP and Regulation (EC) No. 2580/2001 of 27 December 2001 to the IRGC, in brief to its inclusion in the European list of terrorist organisations.

- ii.* **US decisions.** The US government has taken numerous decisions to sanction the IRGC. These decisions are still valid today and the IRGC remains on the US list of terrorist organisations on the basis of updated facts.

Thus,

- **25 October 2007:** the Treasury Department designated the IRGC's Al-Quds Force as a Specially Designated Global Terrorist (SDGT) under the terms of Executive Order 13224,
- **13 October 2017:** the US Treasury's Office of Foreign Assets Control designated the IRGC as a Specially Designated Global Terrorist (SDGT) for its activities "*in support of the IRGC-Quds Force (IRGC-QF)... for providing support to a number of terrorist groups, including Hezbollah and Hamas, as well as the Taliban*",
- **15 April 2019:** the US State Department designated the IRGC as a foreign terrorist organisation under the provisions of Section 219 of the Immigration and Nationality Act,

- **June 24, 2019:** the Office of Foreign Assets Control of the US Department of the Treasury designated IRGC Navy Commander Ali Reza Tangsiri as a Specially Designated Global Terrorist (SDGT) under the terms of Executive Order 13224,
- **March 26, 2020:** the US Treasury Department designated Sayyed Yaser Musavir as a Specially Designated Global Terrorist (SDGT) under the terms of Executive Order 13224.

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All these American decisions constitute decisions by competent authorities that the Council of the European Union could rely upon to extend the effects of Common Position 2001/931/CFSP and Regulation (EC) No. 2580/2001 of 27 December 2001 to the IRGC, in short to its inclusion in the European list of terrorist organisations.

iii. Canadian decisions. Canada, in its *Special Economic Measures (Iran) Regulations* of 06 March 2023, has established a list of individuals and entities subject to sanctions. In section 2(b), it states:

" 2. The list set out in Schedule 1 shall include the name of any person who is in Iran or is a national of Iran not ordinarily living in Canada and in respect of whom the Governor in Council is satisfied, on the recommendation of the Minister, that there are reasonable grounds to believe that the person is any of the following persons:

(...)

(b) any senior officer or former senior officer of the Islamic Revolutionary Guard Corps;"

Thus, it names the IRGC and several of its entities in the list of sanctioned entities:

" 36 IRGC Air Force (and RGC Air Force Missile Control Centre)

37 IRGC Supply and Logistics Support

38 IRGC Missile Control Centre

39 IRGC Naval Force

(...)

136 Islamic Revolutionary Guard Corps (also known by the following names: IRGC, IRGC, IRGC Army, Iranian Revolutionary Guard, Sepah-e Pasdaran-e Enghelab-e Eslami and Pasdaran)"

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All these Canadian decisions are decisions from competent authorities that the Council of the European Union could rely upon to extend the effects of Common Position 2001/931/CFSP and Regulation (EC) No 2580/2001 of 27 December 2001 to the IRGC, in short to its inclusion in the European list of terrorist organisations.

CONCLUSION

1. It ensues from the above that numerous decisions by competent authorities within the meaning of Common Position 2001/931/CFSP, Council decisions and the case law of the Court of Justice of the European Union have imposed sanctions on the IRGC, so that there is no legal obstacle to extending Regulation (EC) No 2580/2001 of 27 December 2001 to it.

In brief, the inclusion of the IRGC in the European list of terrorist organisations is a test of the political will of the EU member states.

2. It should also be recalled that, at a time when negotiations on the Islamic Republic's nuclear programme - led by the IRGC - could be reopened, such an agreement and the lifting of sanctions that it would entail would strengthen the IRGC, and thus the repression of the millions of Iranian citizens who have been mobilised to defend their rights since mid-September 2022.

Conversely, the inclusion of the IRGC in the European list of terrorist organisations would weaken it and thus weaken the repression still underway.

Indeed, following the execution of the JCPOA, the Islamic Republic obtained the unfreezing and immediate return of 1.5 billion dollars⁷⁵. This money was not invested in improving the standard of living of Iranians but rather in the war in Syria⁷⁶ and in the security apparatus of the Islamic Republic.

Also, reaching a new agreement on the Iranian nuclear programme would have the same effect and would give the IRGC the financial means to make the crackdown worse. As this repression can be qualified as a crime against humanity under the provisions of the Rome Statute, the Iranian people cannot be blamed for accusing the States involved in such an agreement of complicity in a crime against humanity...

On the other hand, as we have seen above, the inclusion of the IRGC in the European list of terrorist organisations would lead the Member States of the European Union to apply the provisions of Article 2 of Regulation (EC) No. 2580/2001 of 27 December 2001 against it, and thus to strengthen sanctions against all persons and entities linked to or affiliated with it.

3. The question is thus put to the Member States of the European Union: do you want to strengthen or weaken the crackdown against the Iranian people?

In the absence of any legal difficulty regarding the inclusion of the IRGC in the European list of terrorist organisations, the only thing that matters is political will.

A refusal to list the IRGC could only be interpreted as a desire to maintain a conciliatory stance - complacent from the point of view of Iranian citizens - towards the IRGC and the leadership of the Islamic Republic.

⁷⁵ <https://www.lefigaro.fr/international/2018/04/25/01003-20180425ARTFIG00245-que-contient-l-actuel-accord-iranien-sur-le-nucleaire.php>

⁷⁶ https://www.lemonde.fr/international/article/2021/03/19/entre-l-iran-et-la-syrie-des-lendemain-economiques-qui-dechantent_6073816_3210.html

4. For the record, the Council of the European Union has taken numerous targeted decisions against members of the IRGC for their involvement in the Iranian crackdown.

For example, on 12 April 2021, the European Union sanctioned the following IRGC members for their involvement in the November 2019 crackdown⁷⁷:

- General Hossein Salami, Commander-in-Chief of the IRGC,
- Gholamreza Soleimani, Head of the IRGC's Basij organisation,
- General Mohammad Pakpour, Commander-in-Chief of the IRGC Ground Forces,
- General Hassan Shahvarpour, Commander of the Vali Asr Corps in Khuzestan Province.
- On 14 November 2022, the Council of the European Union sanctioned again members of the IRGC for their involvement in the suppression of the movement that arose from the murder of Mahsa Amini^{78 79}. These members include:
 - General Hossein Salami, Commander-in-Chief of the IRGC,
 - Salar Abnoush, Deputy Commander of the Basij resistance force,
 - General Hossein Nejat, Deputy Commander of Sarallah,
 - General Hossein Maroufi, Deputy Head of IRGC Mobilisation in Sistan-Baluchistan Province,
 - General Parviz Absalan, Deputy Head of IRGC in Sistan-Baluchistan Province,
 - General Ahmad Shafahi, Commander and Head of IRGC Public Relations in Sistan-Baluchistan Province,
 - General Seyed Sadegh Hosseini, Head of IRGC in Kurdistan Province,
 - Colonel Hossein Rajabpour, Commander of the IRGC Beit al-Maqdis force in Kurdistan in the city of Sanandaj,
 - Gholamhossein Mohammadi Asl, Head of the IRGC in Ardabil province,
 - Colonel Shakar Abdi, Deputy Head of the IRGC in Ardabil province,
 - General Hasan Hassanzadeh, IRGC Chief in Tehran Province,
 - Colonel Morteza Mir Aghaei, Head of the Basij resistance force in the city of Sanandaj,
 - the Basij Cooperative Foundation, associated with the IRGC and the Basij Resistance Force.

It is important to mention these sanctions in order to denounce the significance of refusing to put the IRGC on the European list of terrorist organisations, and worse, of reaching an agreement on the nuclear programme: the lifting of sanctions that would result from an agreement on the Islamic Republic's nuclear programme would neutralise the effects of the sanctions that have so far been imposed in response to the repression of Iranian citizens.

In short, reaching an agreement on the nuclear programme would mean returning frozen funds and facilitating the IRGC's access to international financial channels, thus putting money in the hands of those sanctioned. The sanctions against them would then be rendered meaningless and ineffective.

5. The European Union must bear in mind that if the Western world is obliged to make a distinction in how it addresses issues, and in particular a clear separation between the Iranian nuclear programme and the violation of human rights by the Islamic Republic, the recent discussions between the latter and the Director General of the International

⁷⁷ Council's Implementing Decision (CFSP) 2021/585 of 12 April 2021 implementing Decision 2011/235/CFSP concerning restrictive measures against certain persons and entities in view of the situation in Iran

⁷⁸ Council's Implementing Regulation (EU) 2022/2230 of 14 November 2022 implementing Regulation (EU) No 359/2011 concerning restrictive measures against certain persons, entities and bodies in view of the situation in Iran

⁷⁹ Council's Implementing Regulation (EU) 2022/2231 of 14 November 2022 implementing Regulation (EU) No 359/2011 concerning restrictive measures directed against certain persons, entities and bodies with regard to the situation in Iran

Atomic Energy Agency are part of a strategy of the IRGC to obtain the means to remain in power through violence and repression.

Faced with this strategy, the international community should not be naïve and believe that the time for a "constructive dialogue"⁸⁰ has come. These negotiations come at the right time for the Islamic Republic, which has always used its nuclear programme to silence the international community on the atrocities it carries out and thus save the regime against the will of the Iranian people.

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⁸⁰ <https://www.france24.com/fr/moyen-orient/20230304-le-chef-de-l-aiea-salue-des-discussions-constructives-avec-l-ira>