

# EUROPEAN PARLIAMENT

1999



2004

---

*Session document*

FINAL  
**A5-0036/2003**

19 February 2003

**\***

## **REPORT**

on the proposal for a Council regulation amending, as regards the exemptions to the freezing of funds and economic resources and for the tenth time, Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban  
(COM(2003) 41 – C5-0048/2003 – 2003/0015(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Jorge Salvador Hernández Mollar

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

## CONTENTS

	<b>Page</b>
PROCEDURAL PAGE .....	4
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
MINORITY OPINION .....	9

## PROCEDURAL PAGE

By letter of 12 February 2003 the Council consulted Parliament, pursuant to Article 308 of the EC Treaty, on the proposal for a Council regulation amending, as regards the exemptions to the freezing of funds and economic resources and for the tenth time, Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban (COM(2003) 41 – 2003/0015(CNS)).

At the sitting of 12 February 2003 the President of Parliament announced that he had referred the proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and to the Committee on Economic and Monetary Affairs for their opinions (C5-0048/2003).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Jorge Salvador Hernández Mollar rapporteur at its meeting of 18 February 2003.

The committee considered the Commission proposal and draft report at its meetings of 17 February 2003 and 18 February 2003.

At the latter meeting it adopted the draft legislative resolution by 32 votes to 1, with 0 abstentions.

The following were present for the vote Jorge Salvador Hernández Mollar (chairman and rapporteur), Robert J.E. Evans and Giacomo Santini (vice-chairmen), Christian Ulrik von Boetticher, Johanna L.A. Boogerd-Quaak (for Francesco Rutelli pursuant to Rule 153(2)), Alima Boumediene-Thiery, Giuseppe Brienza, Kathalijne Maria Buitenweg (for Patsy Sørensen), Michael Cashman, Ozan Ceyhun, Carlos Coelho, Gérard M.J. Deprez, Enrico Ferri (for Thierry Cornillet pursuant to Rule 153(2)), Adeline Hazan, Anna Karamanou (for Margot Keßler), Timothy Kirkhope, Eva Klamt, Ole Krarup, Alain Krivine (for Giuseppe Di Lello Finuoli), Baroness Sarah Ludford, Luís Marinho (for Sérgio Sousa Pinto), Hartmut Nassauer, Bill Newton Dunn, Marcelino Oreja Arburúa, Hubert Pirker, Bernd Posselt, Martine Roure, Gerhard Schmid, Ilka Schröder, Joke Swiebel, Anna Terrón i Cusí, Maurizio Turco and Olga Zrihen Zaari (for Carmen Cerdeira Morterero).

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Economic and Monetary Affairs decided on 18 February 2003 not to deliver an opinion.

The report was tabled on 19 February 2003.

## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council regulation amending, as regards the exemptions to the freezing of funds and economic resources and for the tenth time, Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban (COM(2003) 41 – C5-0048/2003 – 2003/0015(CNS))**

**(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2003) 41)<sup>1</sup>,
  - having regard to Article 308 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0048/2003),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0036/2003),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
  5. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  6. Instructs its President to forward its position to the Council and Commission.

---

<sup>1</sup> Not yet published in OJ.

Amendment 1  
Recital 5 (new)

***Furthermore, Regulation (EC) No 881/2002 should introduce a procedure, based on the existing UN procedures<sup>1</sup> and respecting the spirit of Article 19 of the EU Treaty, for the deletion of persons and entities from the list in Annex I.***

***<sup>1</sup> UN Press Release of 16/8/2002 (SC/7487, AFG/203)***

*Justification*

*The Regulation should also be revised to include a procedure for requesting the deletion of persons from the list.*

Amendment 2  
ARTICLE 1 A, POINT 1  
Article 5 (1a) (new) (Regulation EC No 881/2002)

***1a) In addition, natural and legal persons, entities and bodies may submit a petition requesting that persons and entities should be deleted from the list in Annex I ("de-listing") to the competent authorities of the Member States listed in Annex II where they are resident or of which they are citizens, and directly, or through these competent authorities, to the Commission.***

***This petition should include justification for the request, all relevant information and request support for de-listing.***

### *Justification*

*The Regulation is much improved by the inclusion of a procedure for exemptions and exceptions on humanitarian grounds. However, there needs to be a procedure for collecting information on possible modifications to the list in Annex I and making such requests to the Sanctions Committee, in particular, given that persons are included in Annex I without any judicial procedure.*

### Amendment 3

#### ARTICLE 1 A, POINT 2

Article 8a (new) (Regulation EC No 881/2002)

#### ***Article 8a***

***The Member State which received the petition, with the support of the Presidency and the Commission, shall maintain contacts with the government which proposed designation and may communicate to the Sanctions Committee any request for the de-listing of persons and entities from the list in Annex I.***

### *Justification*

*The Member State which received the request for the deletion of persons should follow the procedure in Press Release SC/7487, AFG/203, with the support of the Council Presidency, in order to seek the deletion of persons on the list in Annex I.*

### Amendment 4

#### ARTICLE 1 A, POINT 3

Article 10a (new) (Regulation EC No 881/2002)

#### ***Article 10a***

***The European Parliament shall be kept regularly informed by the Presidency and the Commission on the implementation of this Regulation.***

*Justification*

*In accordance with Article 21 of the EC Treaty, the Parliament should be kept regularly informed.*

Amendment 5

ARTICLE 1 A, POINT 4

Article 13a (new) (Regulation EC No 881/2002)

*Article 13a*

***This Regulation shall expire on the same day as UN Security Council Resolutions 1267(1999), 1390(2002) and 1452 (2002) are revoked or annulled.***

*Justification*

*Although the Regulation will be probably be repealed shortly after the Resolutions are annulled or revoked, the Regulation should expire automatically.*



## MINORITY OPINION

pursuant to Rule 161(3) of the Rules of Procedure  
Ole Krarup, Maurizio Turco, Marco Cappato

Since 11 September 2001, the EU's anti-terrorism legislation has shocked the legal profession. The Western world's collective panic has given rise to a corresponding collective disregard for fundamental legal principles – such as the rule of law, the accused's right to fair defence, and *in dubio pro reo* – which are normally upheld as central tenets of European legal culture.

Disrespect for legal certainty is not only being reflected in the substance of EU law, but also in the scandalously superficial procedure which has been applied in connection with the adoption of anti-terrorism laws, including the framework agreement on the European Arrest Warrant and other measures against terrorism (Council Framework Agreement 2002/475/JHA of 13 June 2002, Council Regulations 2580/2001 of 27 December 2001 and 467/2001 of 6 March 2001).

It must be regarded as one of this committee's principal tasks to uphold the legal certainty of the individual. In the light of this, the undersigned will table amendments in the plenary debate on this report with a view to establishing a minimum level of legal certainty in connection with the use of terrorism lists.