

Information brief of the Oesterreichische Nationalbank (OeNB) about sanctions to counter the financing of terrorism

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I. Background

The United Nations Security Council adopts resolutions with a view to depriving terrorists and terrorist organizations of the power of disposal of their financial assets and prevent suspicious capital flows.¹ For instance, Resolution 1267, passed in 1999, imposed restrictions on persons and organizations connected to the Taliban. These restrictions were extended to explicitly cover the Al-Qaeda network through Resolution 1390, adopted in 2002.

Developments in Afghanistan led the UN Security Council to pass Resolutions 1988 and 1989 in 2011 with a view to separating the sanctions to combat terrorism financing with respect to Al-Qaeda and those with respect to the Taliban, thereby establishing two separate sanctions committees and sanctions lists.² Resolution 2253, adopted in 2015, extended the measures set out in Resolution 1989, adopted in 2011, to combat terrorist financing to persons or organizations supporting the Islamic State in Iraq and the Levant (ISIL/Da'esh). The sanctions regime was thus adapted to address the global threat emanating from terrorist groups; such adaptations are made on an ongoing basis.³ Furthermore, Resolution 1373, adopted in 2001, which is not a sanctions resolution containing sanctions lists, generally obligated member states to freeze financial resources and assets that serve the purpose of terrorism financing.

The member states of the United Nations are obligated to implement the relevant resolutions passed by the UN Security Council in national law. In the European Union (EU), this is achieved through EU regulations (Article 215 Treaty on the Functioning of the European Union (TFEU)), which are directly applicable in all EU member states, i.e. also in Austria (Article 288 TFEU).⁴ The EU may also autonomously impose sanctions without the UN having taken any measures.⁵ Under certain conditions, member states may also adopt legal acts at the national level.⁶ The legislative power of the Federal Minister of Finance in agreement with the Federal Minister for European and International Affairs and the Federal Minister of the Interior with regard to sanctions is primarily derived from in the Sanctions Act 2024. In the field of capital movements and payment transactions the OeNB is holding legislative power pursuant to Article 3 paragraph 4 of the Foreign Exchange Act (DevG).⁷

¹ An overview of the UN Security Council's sanctions committees, relevant resolutions and information about listings and delistings can be found on the UN website at <https://www.un.org/securitycouncil/>.

² For information about the individual sanctions committees, see the UN website at <https://www.un.org/securitycouncil/sanctions/1267> and [Security Council Committee established pursuant to resolution 1988 \(2011\) | United Nations Security Council](https://www.un.org/securitycouncil/sanctions/1988).

³ See Resolutions 2368 (2017), 2462 (2019), 2560 (2020).

⁴ German and other language versions of the individual EU legal instruments as well as (unofficial) consolidated versions are available at <http://eur-lex.europa.eu/>. An overview of the EU's current sanctions, including a consolidated list of persons, groups and entities subject to EU financial sanctions, can be found at www.sanctionsmap.eu.

⁵ Further details can be found on the website of the European Council and the Council of the European Union, in the section on different types of sanctions (as per June 6, 2019) at <https://www.consilium.europa.eu/en/policies/sanctions/different-types/>.

⁶ Article Sanctions Act 2024.

⁷ Relevant Austrian legislation can be found on the Republic of Austria's legal information system website <http://www.ris.bka.gv.at/>. Further information (in German only) available under "Finanzsanktionen" (financial sanctions) on the OeNB's website at (<http://www.oenb.at/ueber-uns/rechtliche-grundlagen/finanzsanktionen.html>) and the website of Federal Minister of Finance ([Sanktionen](https://www.bmfi.gv.at/sanktionen)).

II. Overview

a) Restrictive measures against ISIL/Da'esh and Al-Qaeda

The EU imposed sanctions against ISIL (Da'esh) and Al-Qaeda at the EU level in particular by adopting the following two regulations: Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations and Council Regulation (EU) 2016/1686 of 20 September 2016 imposing additional restrictive measures directed against ISIL (Da'esh) and Al-Qaeda and natural and legal persons, entities or bodies associated with them, as amended.

These regulations **prohibit making available, directly or indirectly, “funds or economic resources”⁸ to specific persons** and prescribe that all funds and economic resources of said persons are to be **frozen**.

“Freezing of funds” means

“preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;”⁹

“Freezing of economic resources” means

“preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.”¹⁰

Under these regulations (see Article 2a paragraph 1 of Regulation (EC) No 881/2002 and Article 5 ff of Regulation (EU) 2016/1686, both as amended), the OeNB may, under certain conditions (please see below at b)), grant **exemptions** from the instruction to freeze funds and the prohibition of making available economic resources (e.g. if these funds or economic resources are necessary to cover basic expenses of listed persons). Requests for such exemptions, including detailed reasoning, must be submitted to the OeNB's Legal Division.

In addition to exemptions that may be granted in individual cases, there are specific payments to listed persons (e.g. the crediting of interest) that are, under strictly defined criteria, ex ante exempt by act of law from the prohibition of making available resources (see Article 2a paragraph 4 of Regulation (EC) No 881/2002, as amended). It must be ensured, however, that these amounts are credited to a frozen account and are themselves frozen as well. Such cases do not require the submission of a separate request.

⁸ For the definitions of these concepts, see Article 1 of Regulation (EC) No 881/2002, as amended.

⁹ Definition as stated in Article 1 of Regulation (EC) No 881/2002, as amended.

¹⁰ Definition as stated in Article 1 of Regulation (EC) No 881/2002, as amended.

b) *Restrictive measures to combat terrorism*

Security Council Resolution 1373 (2001) with regard to terrorists and terrorist organizations in third countries was implemented at the EU level through 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, as amended.

This regulation **prohibits “funds and other financial assets or economic resources from being made available”**¹¹ and stipulates that all funds, other financial assets and economic resources of such persons and organizations must be **frozen**.¹²

The list of persons and organizations to which the regulation applies is reviewed every six months and published in the annex to a Council implementing regulation (in line with Article 2 paragraph 3 of Regulation (EC) No. 2580/2001). It includes terrorist organizations like, e.g., Hamas, the Hizballah Military Wing, DHKP/C or PKK.¹³

With respect to the listings of terrorists in the EU, the relevant provisions used to be implemented in Austria through regulations (Official Announcements) issued by the OeNB on the basis of the Foreign Exchange Act 2004. Since February 11, 2025, the Sanctions Act 2024 provides the legal basis for implementing financial sanctions at the national level in Austria. Pursuant to Article 4 paragraph 1 Sanctions Act 2024, the Federal Minister of Finance in agreement with the Federal Minister for European and International Affairs and the Federal Minister of the Interior is empowered to issue regulations or decisions to prescribe certain measures if this is necessary to implement sanction measures adopted by the UN or the EU. In the past this legislative power was held by OeNB, that issued Official Announcement DL 2/2002, which was amended by regulation (Official Announcement) DL 1/2009 (see also Article 19 Sanctions Act 2024). The persons listed in these documents are subject to the prohibition of resources being made available and the instruction on the freezing of funds.

Under this sanctions regime (see Article 5 of Regulation (EC) No 2580/2001, as amended, and Article 5 Sanctions Act 2024), the competent authority pursuant to Article 6 paragraph 1 Sanctions Act 2024 may, under certain conditions, grant exemptions from the instruction to freeze funds and the prohibition of making available resources (e.g. if such funds are necessary to cover basic expenses of listed persons). Requests for such exemptions relating to frozen assets that are managed or held by financial market participants within the meaning of Article 1 paragraph 4 Sanctions Act 2024 or that consist of receivables against such financial market participants, must be submitted to the OeNB's Legal Division including detailed reasoning. As of 1 January 2026, such applications must be submitted to the Financial Market Authority (FMA), which will take over this competence from the OeNB from this date.

In addition to exemptions that may be granted in individual cases, there are specific payments to listed persons (e.g. the crediting of interest) that are ex ante exempt by act of law from the prohibition of granting access to resources (see Article 5 paragraph 1 of Regulation (EC) No 2580/2001, as amended). It must be ensured, however, that these amounts are credited to a frozen account and are themselves frozen. No request needs to be submitted for this procedure.

However, this does not apply to persons listed by the OeNB under the Sanctions Act 2024, as – unlike Council Regulation (EC) No 2580/2001 – the Sanctions Act 2024 does not provide for such exceptions.

¹¹ For the definitions of these concepts, see Article 1 of Regulation (EC) No 2580/2001, as amended.

¹² Article 2 of Regulation (EC) No 2580/2001, as amended.

¹³ See Council Implementing Regulation (EU) 2021/1188 of 19 July 2021.

(This means that in such cases, a request would have to be submitted to the OeNB under the provisions of Article 5 paragraph 2 item 2 Sanctions Act 2024.)

III. Procedure

a) Freezing of funds and economic resources and prohibition of making available such resources

If, for example, the customer of a bank is a listed person, the funds or economic resources of that person must be **frozen** until further notice. Also, **making funds available** to listed persons must be **prevented**, meaning that e.g. transfers that would normally be credited to the account of a person subject to sanctions must not be effected.

b) Disclosure of information to the competent authorities

Financial institutions and payment institutions must immediately disclose any information that would facilitate the application of the relevant sanction regulations to the competent authorities of the member states in which they are resident or located and, directly or through these competent authorities, to the European Commission¹⁴. Hence, Austrian financial institutions and payment institutions must, in particular, **immediately inform the OeNB about any accounts and amounts frozen**. Financial institutions and payment institutions must cooperate as necessary with competent authorities seeking to verify information thus provided.

c) Verifying the identity of persons concerned

It cannot be ruled out that, in some cases, an institution may freeze the funds and economic resources of a person that is not the actual target of financial sanctions if the identification data of this person are identical to those of a listed person (*false positive*). If a financial institution or payment institution has any doubts whether a customer is in fact a listed person, it must first draw on all resources and means at its disposal to verify the identity of the customer. If the institution is not able to fully dispel any doubts, the competent authority must be involved. No transactions connected to the customer in question may be conducted until the matter has been clarified. Persons who believe that their funds and financial resources have been frozen without due cause because they have been mistaken for listed persons should contact the competent authority for clarification.

d) Delisting

Removing a person or organization from a sanctions list may be warranted if the criteria for a listing are no longer fulfilled. This will be the case, e.g., if the listing has been proven to be a mistake or if the situation changes materially after the listing and also after the death of a listed person or the dissolution of a listed organization. Persons who believe that they should be removed from a list of sanctioned persons may contact the competent authority.¹⁵ Without prejudice to the possibility of submitting a request to the competent authorities, persons concerned may also seek legal action.

e) Responsibilities

The contact details of the Austrian competent authorities can be found on the website¹⁶ of the Federal Ministry for European and International Affairs.

¹⁴ See also Article 5 of Regulation (EC) No 881/2002, as amended, Article 4 of Regulation (EC) No 2580/2001, as amended, Article 10 of Regulation (EU) 2016/1686.

¹⁵ The UN has established a focal point for delisting and the Office of the Ombudsperson to deal with requests for delistings. For details, see <https://www.un.org/securitycouncil/sanctions/information>. With respect to EU sanction measures, listed persons and organizations may request a review of the decision to add them to the sanctions list by submitting supporting documentation to the Council. For further details, see <https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/>. Persons that have been listed on the basis of a regulation issued by the OeNB may submit their request to the OeNB (Legal Division).

¹⁶ <https://www.bmeia.gv.at/en/european-foreign-policy/foreign-policy/europe/eu-sanctions-national-authorities/>.

IV. Legal consequences of violations

Financial market participants' compliance with sanctions regulations is monitored by the OeNB in line with Article 12 paragraph 1 in conjunction with paragraph 2 Sanctions Act 2024. To this end, **the OeNB is authorized** (e.g. when performing on-site examinations) to **request information and reports** from institutions and to inspect documents and data storage devices on site (see Article 12 paragraph 3 Sanctions Act 2024 and Article 5 paragraph 2 Foreign Exchange Act). Moreover, institutions are obligated to cooperate with the competent authorities, e.g. on the basis of Article 4 of Council Regulation (EC) No 2580/2001, as amended, and Article 5 of Council Regulation (EC) No 881/2002, as amended.

Violations of the above-mentioned legal instruments are punishable: A **transaction or other legal act in violation** of a regulation or decision issued by the OeNB or of a directly applicable sanction measure of the EU is an administrative offense and carries a **fine** of up to **EUR 150,000**. If the violation concerns a legal act involving a sum of more than **EUR 100,000**, it is punishable by a criminal court with **imprisonment from six months up to five years** (see Articles 16 and 17 Sanctions Act 2024).

Obtaining an **exemption authorization from the competent authority by fraudulent means, i.e. by disclosing incorrect or incomplete information**, is an administrative offense and carries a fine of up to **EUR 150,000**. **Failure to fulfill the obligation to disclose information** or data, to submit documents and evidence or to permit inspections fully and within the period prescribed or the knowing disclosure of **incomplete or incorrect information** carries a fine of up to **EUR 150,000**. For serious, repeated or systematic violations, the fine is up to EUR 5,000,000 or up to twice the benefit derived from the breach of duty, if this can be quantified (see Articles 18 paragraph 1 and 2 Sanctions Act 2024).

V. Summary

The responsibility for observing the above-mentioned sanction measures rests with the Austrian financial institutions and payment institutions. In particular, these institutions must ensure that no funds are made available to any of the persons listed in the relevant legal instruments and must furthermore freeze all funds owned, held or controlled by such persons.

If you have any questions about freezing and releasing funds or the prohibition of making available funds, please contact:

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