



20.12.2022

NOTICE TO MEMBERS

Subject: Petition No 0714/2020 by S.T. (French) on banning demonstrations in favour of the terrorist group PKK

1. Summary of petition

The petitioner calls on the EU to ban demonstrations in favour of the Kurdistan Workers' Party (PKK), which is classified as a terrorist organization by the EU, the US and other countries. According to the petitioner, this group is responsible for the deaths of more than 40.000 people, runs a drug trafficking network, and uses Europe as a logistical base to procure weapons, recruit members and systematically extort money. Among other things, the petitioner deplores a Belgian court's decision, earlier this year, that the PKK should not be classified as a terrorist organization, and that demonstrations in favour of this group are still authorised in various European countries, often leading to violence. The petitioner also calls for sanctions against individuals supporting the PKK, and the deletion of their social media accounts.

2. Admissibility

Declared admissible on 12 October 2020. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 20 December 2022

As regards sanctions and the designation by the EU of PKK as a terrorist organisation under

EU Common Position 2001/931/CFSP¹ and Council Regulation (EC) No 2580/2001², it should be noted that the group is subject to the freezing of its funds and other financial assets in the EU. In addition, it is prohibited for EU operators to make funds and economic resources available to it. No restriction on assembly or demonstrations are imposed under the Common Position or the Regulation. Under the EU Common Position 2001/931/CFSP and Regulation (EC) 2580/2001, the possible designation of PKK-supporting individuals as natural or legal persons committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism is the responsibility of the Council of the EU.

With regard to the ban on demonstrations, it should be recalled that under Article 4(2) of the Treaty on European Union (TEU), the EU is to respect the essential state functions of the Member States, including maintaining law and order and safeguarding national security. When implementing EU law, they need to respect the fundamental rights enshrined in the Charter of Fundamental Rights of the EU. At the same time, Article 72 of the Treaty on the Functioning of the European Union (TFEU) states that the provisions of Title V on the area of freedom, security and justice is not to affect the exercise of the responsibilities of Member States with regard to maintaining law and order and safeguarding internal security. The application of rules in respect of demonstrations, and measures taken by national authorities for the maintenance of law and order in that context, is in principle the Member States' responsibility.

As regards the issue of messages on social media, the EU has adopted specific rules as regards the dissemination of terrorist content online, laid down in the Terrorist Content Online (TCO) Regulation³. The TCO Regulation is applicable since 7 June 2022 and obliges hosting service providers falling within its scope to take down terrorist content within one hour after having been ordered to do so by Member States' competent authorities. The latter can thus send such removal orders for terrorist content to hosting service providers, which will be forced to remove the terrorist content within one hour from the reception of the order. This applies to relevant hosting service providers offering services in the EU, to ensure the safety and security of citizens. At the same time, the TCO Regulation puts in place strong safeguards to guarantee that fundamental rights, and in particular the freedom of expression and information, are fully protected. It places obligations on hosting service providers to provide for complaint mechanisms and addresses the right of redress.

The EU has also adopted further horizontal rules through the recently adopted Digital Services Act (DSA)⁴, which aims to address all types of illegal content, including terrorist content online. Among other things, the DSA, once applicable, obliges providers of very large online platforms to conduct risk assessments on the dissemination of illegal content through their

1 Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism, *OJ L 344*, 28.12.2001, p. 93–96; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001E0931&qid=1671530575236>

2 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, *OJ L 344*, 28.12.2001, p. 70–75; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001R2580&qid=1671530774788>

3 Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online, *OJ L 172*, 17.5.2021, p. 79–109; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0784&qid=1671530955554>

4 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), *OJ L 277*, 27.10.2022, p. 1–102.

service and to adopt appropriate measures in response to such risks.

Conclusion

The application of rules in respect of demonstrations, and measures taken by national authorities for the maintenance of law and order in that context, fall in principle within Member States' responsibilities. Therefore the Commission is not in a position to follow up on this issue. In such cases, it is for Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected in accordance with their national legislation and international human rights obligations.

As regards illegal content online, the EU has recently adopted measures to reinforce the fight against illegal content online, including terrorist content online. It is in principle for Member States authorities and, in relation to certain aspects of the DSA once applicable, for the Commission to ensure the correct application of the rules adopted under the relevant EU laws, such as the TCO Regulation and the DSA. The Commission will regularly monitor the correct implementation of the above regulations and, in particular, may take the necessary actions to monitor the effective implementation and compliance with those regulations.