

RENEWAL OF THE DESIGNATION OF EUSKADI TA ASKATASUNA [ETA] AS A TERRORIST ENTITY

PURPOSE

1. The purpose of this paper is to demonstrate Euskadi Ta Askatasuna (also known as ETA, Euzkadi Ta Askatasuna, Euzkadi Ta Askatasuna, Basque Fatherland and Liberty, Basque Homeland and Liberty, Basque Nation and Liberty and Basque Homeland and Freedom) meets the statutory criteria to renew its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).
2. The paper concludes the group meets the criteria for renewal as a designated terrorist entity under the TSA.

STRUCTURE OF THIS PAPER

3. This paper sets out updated information about ETA's involvement in terrorist activity and covers any changes and/or developments to the organisation since its original designation including to its objectives, structure, weapons and tactics.
4. This updated information, together with information contained in the original designation paper¹ and previous renewal paper,² provide the basis for the paper's conclusion that ETA meets the legal criteria for renewal of its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR DESIGNATION RENEWAL UNDER THE TSA

5. Section 35(1) of the TSA provides that a designation of a terrorist entity expires three years after the date of designation unless it is earlier renewed by the Prime Minister. The original designation is made pursuant to s 22 of the TSA, which provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts. Carrying out a terrorist act includes the planning, preparation or credible threat to carry out the act, whether it is actually carried out or not (s 25(1)(a) and (b)) and also includes an attempt to carry out the act (s 25(1)(c)).
6. The Prime Minister may renew that designation for a further three years under s 35(2) if satisfied that there are still reasonable grounds as set out in s 22 for the entity to be designated under that section.
7. Before the expiry of an order made under s 35(2), the Prime Minister may make another order under s 35(3) renewing the designation concerned for a further three years. The Prime Minister may make any number of orders under s 35(3) in respect of the same designation (s 35(5)).

CREDIBILITY OF SOURCES

8. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are: Jane's Terrorism and Monitoring series, Open Source Centre, and Europol. Local news sources referenced include Euronews and Spanish News Today. Information was also received from Spanish and French authorities.

EVIDENCE RELEVANT TO DESIGNATION RENEWAL UNDER THE TSA

Activity since designation renewal in February 2013

9. ETA was designated as a terrorist entity on 10 February 2010.³ The designation was renewed on 11 February 2013.⁴
10. In October 2011 ETA declared a “definitive end to armed activity”, but to date has not formally disarmed nor disbanded as the Spanish and French Governments demand.⁵
11. On 7 May 2013, a joint police operation between the French and Spanish security forces resulted in the arrest of six ETA members.⁶ According to police officials, the raids were made in France, and resulted in the arrest of individuals who had formed part of the group’s logistics apparatus. The members were arrested on suspicion of storing weapons and two revolvers were seized in the raids.⁷
12. On 28 December 2013, representatives of imprisoned ETA members issued a statement accepting responsibility for damage and harm caused by the Basque conflict and vowed to use exclusively legal and democratic means in the future.⁸
13. On 21 February 2014, a group of international observers announced they had verified that ETA had “sealed and put beyond operational use” a small quantity of arms, explosives and detonators, including two revolvers, two rifles, 300 rounds of ammunition, two hand grenades, nearly 17 kilograms of explosives, detonation cord, and nine timers. This quantity of weapons was considered to only be a small portion of material held by ETA.⁹
14. On 21 March 2014, ETA released a communiqué addressed to the Basque people in which it claimed it was ready to take the necessary steps needed for political change. The declaration states that public activation is the main guarantee for moving forward in the political process. It also states the group’s willingness to resolve the conflict and engage the Basque people with transparency and honesty.¹⁰
15. Authorities continue to conduct counterterrorism measures against ETA members. On 28 May 2015, a stockpile of weapons and bomb making material was found in a house in the French town of Biarritz¹¹ during a joint operation by French police and the Spanish Civil Guard. Spain’s Interior Ministry said the weapons were bought four years earlier by ETA prior to the declaration of a definitive ceasefire.¹² In a statement released on pro-separatist media on 6 June 2015, ETA stated France and Spain were enemies of peace, adding that the weapons discovered were about to be sealed and decommissioned. The seizure of a stockpile demonstrates ETA’s lack of progress towards full disarmament.¹³
16. Europol’s 2013, 2014 and 2015 Terrorism Situation and Trend Reports state ETA carried out no terrorist attacks between 2012 and 2014, in accordance with the group’s declaration and observance of a “definitive ceasefire”.¹⁴ Further, there has been no information that any of the ETA members or former members arrested since February 2013 were engaged in planning further attacks. No attack plans have been located in any of the locations searched by Police.

Ideology and objectives of ETA

17. ETA aims to establish an independent socialist state, or homeland (Euzkadi), for the Basque people. More recently, ETA members and supporters have attempted to further this aim by participating legitimately in Basque politics.¹⁵
18. In communiqués released in 2013, ETA stressed its commitment to a negotiated peace process; however, the group did not categorically distance itself from its violent past, nor did it declare its dissolution. Some individuals linked to the group disagreed with this peace process and expressed their readiness to resume terrorist activity, however no attacks have eventuated to date, nor have any plans to attack been discovered by the authorities.¹⁶

Weapons, tactics and capability of ETA

19. Due to ongoing police operations against the group, ETA has been weakened in recent years and it is believed the group now has fewer than 50 active militants capable of organising an attack.¹⁷ ETA's youth wing SEGI reportedly claimed to have disbanded in 2012¹⁸, but evidence of sporadic acts of sabotage and protest suggest the group may still be active.¹⁹
20. A 2014 Europol Report warned ETA stills holds a cache of weapons and explosives in France, as well as previously illegally acquired vehicle number plates. This cache represents a significant proportion of the group's remaining weaponry. The report states the equipment could be used to resume the armed struggle.²⁰

Law of armed conflict (LOAC)

21. The conflict in the Basque region still fails to qualify as an "armed conflict" and accordingly the exemption in s 5(4) of the TSA cannot apply.

CONCLUSION

22. On the evidence set out above, this paper concludes there are still reasonable grounds as set out in s 22 of the TSA for ETA to be designated under that section.
23. Since its renewal in February 2013, ETA has not carried out terrorist acts as defined in ss 5 and 25 of the TSA and has made public statements indicating it has renounced violence. However, ETA has a long history of breaking ceasefires over the past 56 years. The group maintains the capability to reengage in terrorist acts and some individuals linked to ETA have expressed a readiness to resume terrorist activity. While ETA has taken some steps towards disarmament, it retains stockpiles of operative weapons and explosives. As such, there are still reasonable grounds as set out in s 22 of the TSA for ETA to be designated and therefore ETA meets the legal criteria for renewal of its designation as a terrorist entity under s 35.

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- ¹ The statement of case, dated 10 February 2010 can be accessed at: <http://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>
- ² The statement of case, dated 11 February 2013 can be accessed at: <http://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>
- ³ The statement of case, dated 10 February 2010 can be accessed at: <http://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>
- ⁴ The statement of case, dated 11 February 2013 can be accessed at: <http://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>
- ⁵ (16/07/2014) “*Euzkadi Ta Askatasuna (ETA)*” Jane's World Insurgency and Terrorism, accessed via IHS Jane's, available on subscription, on 02/07/2015
- ⁶ (28/05/2014) “*EU Terrorism Situation and Trend Report (TE-SAT)*”, accessed via <https://www.europol.europa.eu/content/te-sat-2014-european-union-terrorism-situation-and-trend-report-2014> on 02/07/2015
- ⁷ (7/05/2013) “*6 Presumed Members of ETA Detained in France*”, Spanish News Today, accessed via http://spanishnewstoday.com/6-presumed-members-of-eta-detained-in-france_16484-a.html#.VZRt4WGGKaSo on 2/07/2015
- ⁸ (30/12/2013) “*ETA prisoners' statement signals momentum towards group's dissolution*”, Jane's Intelligence Weekly, accessed via IHS Jane's, available on subscription, on 5/06/2015
- ⁹ (24/02/2014) “*ETA's disarmament falls short of expectations but risk of violence remains low*”, Jane's Intelligence Weekly, accessed via IHS Jane's, available on subscription, on 5/06/2015
- ¹⁰ (7/10/2014) “*Spain's ETA release communiqué addressed to Basque people*”, Jane's Terrorism Watch Report Daily Update, accessed via IHS Jane's, available on subscription, on 5/06/2015
- ¹¹ (06/06/2015) “*OSC: ETA Accuses France, Spain of Being 'Enemies of Peace' After Police Seize Weapons Cache (ETA)*”, Paris AFP (accessed via Open Source Centre on 02/07/2015)
- ¹² (28/05/2015) “*Weapons linked to Basque group ETA found in France*”, Euronews, accessed via <http://www.euronews.com/2015/05/28/weapons-linked-to-basque-group-eta-found-in-france/> on 5/06/2015
- ¹³ (15/06/2015) “*ETA accuse France and Spain of being enemies of peace*” Jane's Terrorism Watch Report - Daily Update accessed via IHS Jane's, available on subscription, on 02/07/2015
- ¹⁴ (23/04/2013) “*TE-SAT 2013 – EU Terrorism Situation and Trend Report*”. Europol. Accessed via <https://www.europol.europa.eu/content/te-sat-2013-eu-terrorism-situation-and-trend-report> on 13/01/2016, (28/05/2014) “*TE-SAT 2014 – European Union Terrorism Situation and Trend Report 2014*”. Europol. Accessed via <https://www.europol.europa.eu/content/te-sat-2014-european-union-terrorism-situation-and-trend-report-2014> on 12/01/2016 and (06/07/2015) “*European Union Terrorism Situation and Trend Report 2015*”. Europol. Accessed via <https://www.europol.europa.eu/content/european-union-terrorism-situation-and-trend-report-2015> on 12/01/2016.
- ¹⁵ (16/07/2014) “*Euzkadi Ta Askatasuna (ETA)*” Jane's World Insurgency and Terrorism, accessed via IHS Jane's, available on subscription, on 02/07/2015
- ¹⁶ (28/05/2014) “*EU Terrorism Situation and Trend Report (TE-SAT)*”, accessed via <https://www.europol.europa.eu/content/te-sat-2014-european-union-terrorism-situation-and-trend-report-2014> on 02/07/2015
- ¹⁷ (22/02/2014) “*Basque terrorist group ETA 'surrenders some weapons'*”, Melbourne *The Age Online*, accessed via Open Source Centre on 03/06/2015
- ¹⁸ (15/06/2012) “*Basque Youth Group Close to ETA Says it has Dissolved*”, Agence France Press, accessed via <http://www.naharnet.com/stories/en/43511> on 03/02/2016.
- ¹⁹ (28/05/2014) “*EU Terrorism Situation and Trend Report (TE-SAT)*”, accessed via <https://www.europol.europa.eu/content/te-sat-2014-european-union-terrorism-situation-and-trend-report-2014> on 02/02/2016.
- ²⁰ (28/05/2014) “*EU Terrorism Situation and Trend Report (TE-SAT)*”, accessed via <https://www.europol.europa.eu/content/te-sat-2014-european-union-terrorism-situation-and-trend-report-2014> on 02/07/2015