

3.3.1. Kurdistan Workers Party (PKK)

Courts have reached different conclusions on whether the PKK can be considered a terrorist organisation, despite its inclusion in the Council Common Position 2001/931/CFSP. For example, the Finnish Supreme Administrative Court in *A v Finnish Immigration Service* (12 January 2021) and the French Council of State in *A. v OFPRA* (2 December 2025) referred to the inclusion of the PKK in the EU list without disputing its nature. However, a more sceptical approach was adopted by the Belgian CALL in *Applicant v CGRS* (20 May 2022), which refuted the terrorist characterisation of this group.

CALL justified its conclusion by emphasising that the General Court of the EU had annulled several decisions of the Council of the EU, adopted between 2013 and 2017, which included the PKK in the list, as it ruled that the council failed to give sufficient reasons for its inclusion and had not made an up-to-date assessment. Although it acknowledged that the CJEU set aside the judgment of the General Court on 22 April 2021, it referred to the opinion of the Advocate General in *HT v Land Baden-Württemberg* [HT] (C-373/13, 24 June 2015), who considered that the evolving case law of the General Court and the CJEU regarding appeals against listing decisions should discourage conclusions that an organisation is necessarily a terrorist group simply for being included on the list. Considering these elements, CALL considered that the fact that the PKK is included on the list was not sufficient to establish that the PKK is a group of a terrorist nature.

Additionally, CALL gave precedence to national criminal court rulings over the Common Position list, while also conducting its own assessment of the activities of the PKK. It referred to a judgment of 8 March 2019 by the Indictment Division of the Brussels Court of Appeal, which held that the offences carried out by the PKK were committed in a conflict zone during a non-international armed conflict and the PKK could be considered a highly organised fighting force. On this basis, the court considered that the acts in question committed by the PKK cannot be considered as terrorist offences under Belgian criminal law and therefore the PKK cannot be criminally prosecuted as a terrorist group for these acts. CALL also gave importance to the fact that the ruling of the Brussels Court of Appeal was upheld by the Court of Cassation. Additionally, considering the political, economic and social context in which the PKK operates and considering its structure, organisation, activities and methods, CALL held that the PKK cannot be considered to be a terrorist organisation.

When characterising the nature of the PKK, both the Finnish court and the Belgian court referred to the Global Terrorism Database (GTD), an open-source database which provides information related to global terrorist events between 1970-2020. However, the courts reached vastly different conclusions. The Finnish court stated that based on information from the database “the

PKK has committed 82 attacks between 1999 and 2005, the terrorist nature of which is beyond doubt". It remarked that the incidents included targeting civilians and civilian infrastructure, although it noted that some of the events in the database were not confirmed to have been committed by the PKK nor do they all reach the severity to justify the application of the exclusion ground.

In contrast, CALL noted that it cannot be inferred from the GTD database that the PKK committed terrorist acts against civilians. It observed that the database is largely based on information supplied by the Turkish authorities, the incidents recorded include attacks on both military targets and civilians, and the PKK had not claimed responsibility for all of the incidents attributed to it. It therefore concluded that there was no evidence demonstrating that the acts attributed to the PKK were in fact carried out by the organisation in its capacity as a terrorist group.

Based on this varying characterisation of the terrorist nature of the group, the courts reached different outcomes on the application of the exclusion clause. This is particularly evident when comparing the ruling of the French Council of State with the ruling of CALL, which both concerned the applicant's fundraising activities for the PKK. These cases must be viewed in light of the CJEU's ruling in *Lounani*, which unequivocally ruled that the financing of a terrorist organisation could be considered an act contrary to the purposes and principles of the UN.

While the French court, which considered the PKK to be a terrorist organisation, applied the *Lounani* judgment to exclude the applicant from international protection, CALL took a different approach, relying instead on the *HT* judgment of the CJEU. In *HT*, the CJEU did not interpret the exclusion grounds but issued a preliminary ruling related to the revocation of a residence permit for a Turkish national who supported the PKK by attending legal meetings and manifestations, such as the celebration of the Kurdish New Year and the collection of funds for the PKK. The CJEU ruled that these specific acts did not constitute terrorist acts.

Applying this judgment to the substance of the case, CALL ruled that the applicant should not be excluded for committing an act contrary to the purposes and principles on the UN on the basis of his participation in meetings and demonstrations of Kurdish associations and fundraising activities for the PKK in Belgium. Instead, CALL ordered the asylum authority to assess whether the applicant could be excluded from international protection based on serious reasons to believe that he committed a war crime. This case demonstrates that when a court has not classified an organisation as terrorist, the *Lounani* judgment has limited applicability.

In this regard, CALL, which did not consider PKK to be a terrorist organisation, relied on *HT*'s ruling that the fundraising activity was not a terrorist act in itself, without applying the broader *Lounani* framework which considers that fundraising activities related to terrorist groups could still fall under the scope of acts contrary to the purposes and principles of the UN by facilitating terrorism. Thus, the inconsistency between the different characterisation of particular groups across EU+ jurisdictions may lead to different outcomes for applicants, even when they performed the same activities.

While *Lounani* confirms that facilitation and logistical assistance may suffice, it remains unclear how remote or minor the conduct can be before it falls outside the scope of Article 12(2)(c). For

example, different interpretations have been used when applying the exclusion ground on the basis of promotional activities of a group characterised as a terrorist organisation. Finnish case law has drawn a distinction between the level of prominence that the applicant held in the organisation and requires a close causal link between the role of the applicant and any resulting acts of terrorism. For example, in the aforementioned case, *A v Finnish Immigration Service* (12 January 2021), the court did not apply this exclusion ground to an applicant who worked for a long time in the publications unit of the PKK in Iraq, writing articles, working as a translator and conveying information about the organisation and joining the organisation. She was then sent to Iran to share information about the organisation and was supposed to become a leader of the Iranian branch of the PKK (PJAK).

The court considered that although the provision of information and translation work can be considered to promote the organisation's activities and goals, they did not lead to the finding that the applicant is personally responsible for committing acts which are contrary to the purposes and principles of the UN, especially in light of her low position in the organisation. The court gave weight to the fact that it could not be ascertained that, as a result of the applicant's activities, people joined the organisation and subsequently committed excludable acts. The court thus applied a stricter threshold than the one set out in *Lounani*, whereby the CJEU adopted a more preventative rationale, emphasising that exclusion may apply even when the activities of the applicant do not ultimately lead to the perpetration of terrorist acts by the organisation.

However, in contrast to *Lounani* where the applicant had directly arranged the logistics for people to join a terrorist organisation, in this case, the activities of the applicant were of a more remote nature, thus raising the question to which extent can a person's activities related to terrorism be constituted as acts contrary to the purposes and principles of the UN.

When the court considered that the applicant held a prominent position in the organisation, such as in *A. v Finnish Immigration Service* (12 January 2021), the Finnish court more readily excluded the applicant from international protection. The court linked the applicant's role as a major ideological trainer to leaders and fighters of the PKK militants as promoting the organisation's activities and goals and having personal liability for committing serious, non-political crimes and acts contrary to the purposes and principles of the UN.

© European Union Agency for Asylum 2026 | Email: info@euaa.europa.eu