



## Memorandum – Could Jeremy Corbyn become subject to US sanctions as a result of his dealings with HAMAS?

17 September 2018

### Jeremy Corbyn and the US Listing of HAMAS

1. On 31<sup>st</sup> October 2001, HAMAS (also known as Islamic Resistance Movement) was designated<sup>1</sup> under Executive Order 13224 (“EO 13224”) dated 21<sup>st</sup> September 2001<sup>2</sup>.

### What is the legal effect of the designation of HAMAS?

2. With limited exceptions set forth in EO 13224, or as authorized by OFAC, all property and interests in property of HAMAS that are in the United States or that come within the United States, or that come within the possession or control of U.S. persons are blocked.
3. With limited exceptions set forth in EO 13224, or as authorized by OFAC, any transaction or dealing by U.S. persons or within the United States in property or interests in property blocked pursuant to EO 13224 is prohibited, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of HAMAS.
4. Any transaction by any U.S. person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions in EO 13224 is prohibited. Any conspiracy formed to violate any of the prohibitions is also prohibited.
5. At first glance, the designation of HAMAS might appear to have no impact on and create no exposure for non-US persons who have dealings with HAMAS (always so long as they do not involve the US, a US person or electronic payments of US Dollars). However, as detailed at number 6 and 7 below, a non-US person (for example Jeremy Corbyn) who has had certain dealings with HAMAS is at risk of being designated.

### The exposure faced by non-US persons and entities who engage with HAMAS

6. Section 1 (d) of EO 13224 permits blocking provisions to be applied to the following persons as follows:

*(d) except as provided in section 5 of this order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General;*

- (i) *to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to this order or determined to be subject to this order; or*

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<sup>1</sup> <https://www.state.gov/j/ct/rls/other/des/143210.htm>

<sup>2</sup> <https://www.state.gov/j/ct/rls/other/des/122570.htm>

(ii) *to be otherwise associated with those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order.*

7. Therefore, persons who are not US persons, who are determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General to have assisted in, sponsored, or provided material support or “*other services*” to Hamas may themselves be designated. Further, persons who are not US persons, determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General to be “*otherwise associated*” with HAMAS may themselves be designated. It is considered that the words “*otherwise associated*” may well form a basis for the designation of Jeremy Corbyn by relevant US authorities for reasons set out below.
8. No offence is committed by a non-US person who has dealings with HAMAS outside the US so long as the dealings do not involve a US person, do not take place in the US and do not involve electronic payments of US Dollars. However, such person is nevertheless at risk of being designated if such person is “*otherwise associated*” with HAMAS.

#### Jeremy Corbyn’s reported dealings with HAMAS

9. In 2009 Jeremy Corbyn was filmed stating he had invited “*friends from HAMAS*” to speak in Parliament<sup>3</sup>. He went on to say they were unable to attend. On or around 4<sup>th</sup> July 2016 Jeremy Corbyn was reportedly asked whether he still regarded Hamas as “*friends*”, and he is said to have responded: “*No. It was inclusive language I used which with hindsight I would rather not have used. I regret using those words, of course.*”<sup>4</sup>
10. According to the Evening Standard, in August 2012, Jeremy Corbyn appeared on Iran’s Press TV with a convicted Hamas terrorist named Dr Abdul Aziz Umar. Mr Umar, who attended by video link, had reportedly received seven life sentences for helping to organise a Hamas suicide bombing at Café Hillel in Jerusalem in 2003 that killed seven people. Among the victims were Dr David Applebaum, head of the emergency room at Jerusalem’s Shaare Zedek Medical Center, and his daughter Nava, who was due to be married the next day. Umar was charged with providing a safe house for the terrorists and guarding the property as they fitted the bomber with a suicide belt. He was released a year before his Press TV appearance as part of the prisoner swap arranged to release Israeli soldier Gilad Shalit. In relation to Mr Umar, Jeremy Corbyn was reported to have stated:

*“You have to ask the question why they are in prison in the first place.....I’m glad that those who were released were released.”* Umar was appearing on the show by video link but Mr Corbyn pointed out the pair had met before. Mr Corbyn stated “*I met many of the brothers, including the brother who’s been speaking here when they came out of prison, when I was in Doha earlier this year*”, On 30<sup>th</sup> July 2018 The Labour Press office said: “*In 2012 Jeremy was commenting on the prison conditions of Palestinian prisoners, including elected representatives. He was of course in no way supporting or endorsing the actions of the prisoners, but defending their rights under international law.*”<sup>5</sup> Jeremy

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<sup>3</sup> <https://www.youtube.com/watch?v=k5mmJQ5NXXc>

<sup>4</sup> <https://www.theguardian.com/politics/2016/jul/04/jeremy-corbyn-says-he-regrets-calling-hamas-and-hezbollah-friends>

<sup>5</sup> <https://www.standard.co.uk/news/londoners-diary/the-londoner-corbyn-defended-hamas-brother-a3899281.html>



Corbyn has insisted he had never praised the Hamas members' statements and that his reference to them as "*brothers*" was acceptable and said in the context of addressing Muslims.

11. Jeremy Corbyn reportedly attended a panel discussion at a conference on Palestinian refugees, which was held in April 2012 in Doha, Qatar, according to video obtained by the Telegraph and as reported by the Times of Israel<sup>6</sup>. He reportedly shared a platform with former Hamas head Khaled Mashaal and former Hamas military commander in the Samaria Husam Badran. Badran, who was given a 17-year prison sentence in Israel for terror attacks carried out during the Second Intifada, was expelled to Qatar upon his release, where he acted as a HAMAS spokesperson. He was responsible for the Dolphinarium discotheque massacre carried out by Hamas in Tel Aviv on June 1, 2001, which left 21 Israelis dead, as well as the Sbarro restaurant suicide bombing on August 1, 2001, which left 15 Israelis dead. Badran also ordered the Passover massacre in 2002, in which a Hamas suicide bomber blew himself up at the Park Hotel in Netanya while Jews were celebrating Seder night, killing 30 Israelis and injuring 140. "*The nakba, which made us refugees, took place via force, and the return will be only viable through military and armed resistance and nothing else,*" Badran reportedly said at the conference in Doha, according to the Telegraph.

During the Doha conference, Jeremy Corbyn was reported to have praised as a "*huge victory*" the decision of a British court not to deport the leader of the northern branch of the Islamic Movement in Israel, Raed Salah. (Salah's entry to the UK was barred by Theresa May, at the time the Home Office secretary, over his incitement against Jews. Salah violated the ban by entering the UK several months before the conference and was arrested. But an immigration tribunal accepted his appeal and overturned the ban).

Jeremy Corbyn, according to the Telegraph, invited Salah for tea on the British Parliament's terrace and stressed Salah's right "*to speak publicly.*"

Jeremy Corbyn's spokesman told the Telegraph in response that "*Jeremy has a long and principled record of solidarity with the Palestinian people and engaging with actors in the conflict to support peace and justice in the Middle East. That is the right thing to do.*"<sup>7</sup>

#### Could the relevant US authorities determine that Jeremy Corbyn's conduct warrants him being designated?

In our view, the reported references made by Jeremy Corbyn concerning HAMAS and HAMAS persons and his dealings with them may be construed by the relevant US authorities as tantamount to him being "*otherwise associated*" with HAMAS and might thereby result in relevant US authorities determining he should be designated. In particular they might rely on:

- the frequency with which Jeremy Corbyn has historically met and/or shared platforms with HAMAS and/or HAMAS persons;
- his invitations to meet HAMAS and/or HAMAS persons;
- his referencing of HAMAS and/or HAMAS persons as "*friends*" and/or "*brothers*"; and
- the fact that he is a high-profile figure and is aware that his actions and words will likely be reported widely.

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<sup>6</sup> <https://www.timesofisrael.com/labour-head-corbyn-sat-on-panel-alongside-hamas-terror-leaders-in-2012/>

<sup>7</sup> <https://www.ynetnews.com/articles/0,7340,L-5332077,00.html>



The implications of Jeremy Corbyn being listed by the US

Article 5 of EO 13224 states:

*“With respect to those persons designated pursuant to subsection 1(d) of this order, the Secretary of the Treasury, in the exercise of his discretion and in consultation with the Secretary of State and the Attorney General, may take such other actions than the complete blocking of property or interests in property as the President is authorized to take under IEEPA and UNPA if the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, deems such other actions to be consistent with the national interests of the United States, considering such factors as he deems appropriate.”*

However, we consider it is possible that if Jeremy Corbyn is designated then in our opinion:

- Assets of Jeremy Corbyn in the US might well be blocked;
- US banks would be unable to process transactions to or from Jeremy Corbyn. Such would include US clearing and US correspondent banks involved in any payment to Jeremy Corbyn (many large UK banks find it difficult to transfer funds without utilising a bank which is a “US person”);
- In practice, in our experience, many high street banks in the UK would be unwilling to process electronic payments to or from Jeremy Corbyn - even if permitted to do so. Such would place the bank at risk of becoming subject to a penalty if the payment involved a US clearing or correspondent bank; and would place the bank at risk of itself being designated if it processed payments to or from Jeremy Corbyn - even if such did not involve a US bank or US person or an electronic payment in US Dollars; and
- In line with the stance taken by many banks towards organisations headed by a listed person it is likely that most UK banks would consider going further and might refuse to process payments to and from the Labour Party itself whilst a designated person was leader.

Nigel Kushner

A handwritten signature in dark ink that reads 'W legal.' The 'W' is large and stylized, and 'legal.' is written in a cursive script.

W Legal Limited

*Should you have any further queries, please do not hesitate to contact the writer, Nigel Kushner by phone on [REDACTED] or by e mail at [REDACTED]*