



Press and Information

Court of Justice of the European Union

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Judgment in Case C-340/08
M and Others

The freezing of funds of persons with suspected links to Bin Laden, Al-Qaeda or the Taliban does not apply to certain social security benefits paid to their spouses

The regulation ordering funds to be frozen applies only to assets that can be used to support terrorist activities

In order to give effect to certain resolutions of the United Nations, the Council adopted a regulation¹ imposing the freezing of funds and other economic resources of persons associated with Usama bin Laden, the Al-Qaeda network or the Taliban and included in a list drawn up by the UN. More specifically, the regulation prohibits making funds available, directly or indirectly, to or for the benefit of those persons. Nevertheless, the regulation allows a derogation to be granted if the Member States consider that those funds are necessary for basic expenses such as food.

H.M. Treasury considered that the grant of social security and assistance benefits such as income support, disability living allowance, child benefit, housing benefit and council tax benefit granted to the wives of persons included in the list was prohibited by the regulation as those sums might be used to cover basic household expenses, such as buying food for communal meals. If so, they would be made indirectly available for the benefit of the husband whose name appeared on the list.

The Treasury decided, however, that an exception could be made for the wives who could receive those benefits under certain conditions. First, they could withdraw from the bank account into which the benefits were paid only £10 in cash for each member of the household. Second, they had to send a monthly account to the Treasury, detailing all their expenditure in the previous month and enclosing receipts for the goods purchased and a copy of monthly bank statements. Third, the licence included a warning that to make cash, financial assets or economic resources available to their husbands would be a criminal offence.

The spouses concerned challenged that decision, arguing that the benefits in issue were not caught by the prohibition. The House of Lords, hearing the appeal, has asked the Court of Justice whether such social security or social assistance benefits paid to the spouse of a designated person are covered by the prohibition of making funds available, directly or indirectly, to persons whose name appears on the list.

The Court finds that, given that there are divergences between the various language versions of the regulation and of the resolution of the United Nations' Security Council to which that regulation is intended to give effect, the regulation must be interpreted in the light of its purpose, which is to combat international terrorism. The objective of the freezing of funds is to stop the persons concerned having access to economic or financial resources, whatever their nature, that they could use to support terrorist activities. In particular, that objective must be understood as meaning that the freezing of funds applies only to those assets that can be turned into funds, goods or services capable of being used to support terrorist activities.

¹ Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaeda network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan (OJ 2002 L 139, p. 9), as amended by Council Regulation (EC) No 561/2003 of 27 March 2003 (OJ 2003 L 82, p. 1).

The Court considers that the interpretation used by the Treasury, to the effect that by receiving State benefits the wives indirectly make funds available for the benefit of their husbands, is not based on any danger whatsoever that the funds in question may be diverted in order to support terrorist activities.

It has not been argued that the wives concerned hand over those funds to their husbands instead of allocating them to their basic household expenses. Such a misappropriation of funds would, moreover, be covered by the prohibition laid down in the regulation and would constitute an offence punishable under national criminal law.

It is not disputed that the funds in question are in fact used by the spouses concerned to meet the essential needs of the households to which the persons included in the list belong.

It is hard to imagine how those funds could be turned into means that could be used to support terrorist activities, for the benefits are fixed at a level intended to meet only the strictly vital needs of the persons concerned.

The Court concludes, therefore, that **the benefit** that a person included in the list might indirectly derive from the social allowances paid to his spouse **does not compromise the objective pursued by the regulation**.

In consequence, it rules that, in circumstances such as those in the main proceedings, **the regulation does not apply to the grant of social security or social assistance benefits to the spouses of persons included in the fund-freezing list**.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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