



Press and Information

General Court of the European Union
PRESS RELEASE No 81/10
Luxembourg, 9 September 2010

Judgment in Case T-348/07
Stichting Al-Aqsa v Council

The General Court annuls certain Council measures ordering the freezing of funds of Stichting Al-Aqsa with a view to combating terrorism

The national decision serving as a basis for those measures having been repealed, the Council was no longer able to maintain financial sanctions against Al-Aqsa

In order to implement a resolution of the UN Security Council, the Council adopted a Common Position¹ and a regulation², ordering the freezing of the funds of persons and entities appearing on a regularly updated list. Inclusion on that list is to be carried out on the basis of a decision taken by a competent national authority, in principle a judicial authority, against persons and entities involved in terrorist activities.

On 3 April 2003, the Netherlands Minister of Foreign Affairs adopted the Sanctieregeling terrorisme 2003 (terrorism sanctions order), freezing all the funds and financial assets of Stichting Al-Aqsa, a foundation under Netherlands law describing itself as an Islamic social aid institution financially supporting various organisations in Israel, the West Bank and the Gaza Strip involved in humanitarian emergencies, on the ground that transfers of funds by Al-Aqsa were destined for organisations supporting terrorism in the Middle East, including Hamas. An application for interim measures, seeking to suspend the Sanctieregeling, was dismissed by the competent national court.

By decision of 27 June 2003, the Council updated the list, including therein Stichting Al-Aqsa.

The Sanctieregeling was repealed on 3 August 2003, following the adoption of that Community decision.

By judgment of 11 July 2007, the General Court, at the request of Al-Aqsa, annulled the Council's decision of 27 June 2003 and various subsequent decisions updating the list, essentially on the ground that insufficient reasons were stated for them³.

Meanwhile, on 28 June 2007, the Council adopted a fresh decision⁴ updating the list by including Al-Aqsa. At the time of adopting that decision, the Council provided the persons and groups concerned with a statement of the reasons justifying their inclusion. As regards the inclusion of Al-Aqsa, the Council invoked the Sanctieregeling and the order on the application for interim measures as a decision taken by a competent national authority justifying the inclusion of Al-Aqsa in the list.

Al-Aqsa brought an action before the General Court for the annulment of that decision.

¹ Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism (OJ 2001 L 344, p. 93).

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 2001 L 344, p. 70).

³ Case [T-327/03](#) Al-Aqsa v Council (see also Press Release No [47/07](#)).

⁴ Council Decision 2007/445/EC of 28 June 2007 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decisions 2006/379/EC and 2006/1008/EC (OJ 2007 L 169, p. 58).

Since that time, the Council has adopted various decisions and regulations updating the list in question. Al-Aqsa has always been maintained on that list. Al-Aqsa adapted its action so as also to cover the annulment of those new measures, up to a regulation adopted in June 2009⁵.

On 22 December 2009, the Council adopted a new implementing regulation⁶ maintaining Al-Aqsa on the list. That regulation remains in force and does not form part of the subject-matter of these proceedings.

By its judgment, the General Court considers, first, that the order on the application for interim measures, taken together with the Sanctieregeling, appears to be a decision of a competent national authority which could, in principle, justify the adoption of a fund-freezing measure at the Community level.

Nevertheless, the Court recalls that verification of the existence of a decision of a competent national authority is an essential precondition for the adoption of an initial Community decision to freeze funds, while verification of the action taken at national level following that decision is indispensable in the context of the adoption of a subsequent Community decision to continue the freezing of funds.

In that context, the General Court finds that, since its repeal, neither the Sanctieregeling nor the order on the application for interim measures, the legal effects of which depend on the existence of the Sanctieregeling, may validly serve as the basis for a Community measure freezing Al-Aqsa's funds. The Council should have held that there was no longer any "substratum" in national law justifying to a sufficient legal standard the maintenance of the Community measure.

Therefore, the General Court annuls the contested measures in so far as they concern Al-Aqsa.

The General Court adds that the Council is under an obligation to eliminate the same defects or illegalities in any subsequent fund-freezing measure which has repealed and replaced the contested measures, up to the delivery of this judgment. By not doing so, the Council disregards its obligation under the EC Treaty to take the measures necessary to comply with a judgment of the EU courts.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

Unofficial document for media use, not binding on the General Court.

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

Press contact: Christopher Fretwell ☎ (+352) 4303 3355

⁵ The measures concerned are: Council Decision 2007/445/EC of 28 June 2007; Council Decision 2007/868/EC of 20 December 2007; Council Decision 2008/583/EC of 15 July 2008; Council Decision 2009/62/EC of 26 January 2009; and Council Regulation (EC) No 501/2009 of 15 June 2009.

⁶ Council Implementing Regulation (EU) No 1285/2009 of 22 December 2009 implementing Article 2(3) of Regulation (EC) No 2580/2001 and repealing Regulation (EC) No 501/2009 (OJ 2009 L 346, p. 39).