



Press and Information

General Court of the European Union
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Judgment in Case T-341/07
Jose Maria Sison v Council

The General Court has rejected the claim for damages made by Jose Maria Sison following the Council's illegal freezing of his funds

The infringement of European Union law may be accounted for by the particular constraints and responsibilities borne by the Council and constitutes an irregularity that an administrative authority exercising ordinary care and diligence might have committed if placed in similar circumstances

On 30 September 2009 the General Court for the second time annulled acts¹ of the Council ordering the freezing of the funds of Mr Jose Maria Sison, a Filipino national residing in the Netherlands² ('*Sison II*'). It considered that, contrary to the requirements of EU legislation, the national decisions relied on by the Council in order to freeze Mr Sison's funds concerned neither the instigation of investigations or prosecution nor 'condemnation' for terrorist activities.

The national decisions in question were taken by Netherlands courts in the context of an application for grant of refugee status. The application was several times refused by the Secretary of State for Justice on the grounds that Mr Sison was the leader of the Communist Party of the Philippines ('the CPP') and had led the New People's Army ('the NPA'), the military wing of the CPP, which was implicated in a great number of acts of terrorism in the Philippines.

When that judgment was delivered on 30 September 2009, the Court did not rule on the application for compensation made at the same time by Mr Sison, that application having been stayed until delivery of the judgment on the claim for annulment of the fund-freezing measures.

In its judgment today, **the Court has ruled on that application for compensation and dismissed it.**

The Court considers that **the infringement**, although clearly established, **is not sufficiently serious to incur the non-contractual liability of the Community** to Mr Sison.

The Court recalls that it is not the purpose of an action for compensation to make good damage caused by all unlawfulness. Only a sufficiently serious breach of a rule of law intended to confer rights on individuals can cause the Community to incur liability. The decisive test for a finding that this requirement has been satisfied is whether the institution concerned has manifestly and gravely disregarded the limits set on its discretion.

The Court considers that the interpretation and application of the Community law in question were difficult. First of all, it finds that the actual wording of the provisions concerned is particularly confusing, as evidenced by the Court's copious case-law in this field. It is only through its consideration of some 10 cases, spread over several years, that the Court has by degrees constructed a rational, consistent framework for the interpretation of those provisions. Thus, it was only in *Sison II* that the Court held that a national decision must, if the Council is to be able validly to invoke it, form part of national proceedings seeking, directly and principally, the imposition on the person concerned of measures of a preventive or punitive nature, in connection with the combating of terrorism.

¹ In particular, Regulation (EC) No 501/2009 of 15 June 2009 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decision 2009/62 (OJ 2009 L 151, p. 14), in force at the time.

² Case [T-341/07 Sison v Council](#); see also Press Release No [80/09](#).

Moreover, the Court stresses that, contrary to Mr Sison's contentions, the refusal of the Dutch Secretary of State for Justice to grant him refugee status on the ground, in essence, that he had led the NPA, which was responsible for a great number of acts of terrorism in the Philippines, was approved in substance by the Netherlands courts. The Council did not, therefore, make any error of assessment in referring to those factual circumstances and in *Sison II* the Court rejected Mr Sison's arguments in this regard.

In those circumstances, having regard to the fundamental importance of the combating of international terrorism, **the infringement committed by the Council may be accounted for by the particular constraints and responsibilities borne by that institution and constitutes an irregularity that an administrative authority exercising ordinary care and diligence might have committed if placed in similar circumstances.**

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.

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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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