



LUXEMBOURG

ПЪРВОИНСТАНЦИОНЕН СЪД НА ЕВРОПЕЙСКИТЕ ОБЩНОСТИ
TRIBUNAL DE PRIMERA INSTANCIA DE LAS COMUNIDADES EUROPEAS
SOUD PRVNÍHO STUPNĚ EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABERS RET I FØRSTE INSTANS
GERICHT ERSTER INSTANZ DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROOPA ÜHENDUSTE ESIMESE ASTME KOHUS
ΠΡΩΤΟΔΙΚΕΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES
TRIBUNAL DE PREMIÈRE INSTANCE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT CHÉADCHÉIME NA GCÓMHPHOBAL EORPACH
TRIBUNALE DI PRIMO GRADO DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU PIRMĀS INSTANCES TIESA

EUROPOS BENDRIŲ PIRMOSIOS INSTANCIJOS TEISMAS
Az EURÓPAI KÖZÖSSÉGEK ELSŐFOKÚ BÍRÓSÁGA
IL-QORTI TAL-PRIMISTANZA TAL-KOMUNITAJIET EWROPEJ
GERECHT VAN EERSTE AANLEG VAN DE EUROPESE GEMEENSCHAPPEN
SĄD PIERWSZEJ INSTANCIJ WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE PRIMEIRA INSTÂNCIA DAS COMUNIDADES EUROPEIAS
TRIBUNALUL DE PRIMĂ INSTANȚĂ AL COMUNITĂȚILOR EUROPENE
SÚD PRVÉHO STUPŇA EURÓPSKÝCH SPOLOČENSTEV
SODIŠČE PRVE STOPNJE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN ENSIMMÄISEN OIKEUSASTEEN TUOMIOISTUIN
EUROPEISKA GEMENSKAPERNAS FÖRSTAINSTANSRÄTT

Press and Information

PRESS RELEASE No° 79/08

23 October 2008

Judgment of the Court of First Instance in Case T-256/07

People's Mojahedin Organization of Iran v Council

THE COURT OF FIRST INSTANCE ANNULS DECISION 2007/868 ORDERING THE FREEZING OF THE PEOPLE'S MOJAHEDIN ORGANIZATION OF IRAN'S FUNDS

The Council failed to give sufficient reasons for its decision following a decision taken by a UK judicial authority to remove the PMOI from the national list of terrorist organisations

On 28 September 2001 the Security Council of the United Nations adopted a resolution calling on all the Member States of the United Nations to combat by all means terrorism and its funding, in particular by freezing the funds of persons and entities committing or attempting to commit acts of terrorism.

That resolution was put into effect in the Community by, in particular, a common position¹ and a Council regulation², adopted on 27 December 2001, ordering the freezing of the funds of the persons and entities included in a list drawn up and regularly updated by Council decisions. Inclusion in that list must be made on the basis of precise information or material in the file which indicates that a decision has been taken by a competent national authority, in principle judicial, in respect of the persons and entities referred to. The names of persons and entities included in the list must be reviewed at regular intervals, at least once every six months, to be certain that there are grounds for their continued inclusion in the list.

The People's Mojahedin Organization of Iran ('the PMOI'), founded in 1965, set itself the goal of replacing the government of the Shah of Iran, then that of the mullahs, with a democracy. In the past it had an armed branch operating in Iran. It says, however, that it has explicitly renounced all military activity since June 2001.

By decision of 2 May 2002, the Council included the PMOI in the list of persons and entities whose funds must be frozen in order to combat terrorism. Since then, the Council adopted several decisions giving effect to the list in question. The PMOI continued to be included in that list.

¹ 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)

The PMOI brought an action before the Court of First Instance against those decisions. In its judgment of 12 December 2006 (*OMPI*), the Court annulled the decision of 2005³ ordering the freezing of the PMOI's funds on the grounds that it did not contain a sufficient statement of reasons, that it had been adopted in the course of a procedure during which the applicant's right to a fair hearing had not been observed and that the Court itself was not in a position to review the lawfulness of that decision⁴.

By letter of 30 January 2007, the Council told the PMOI that, in its opinion, the grounds relied on for including the PMOI in the list were still valid and that, as a result, it intended to continue including that organisation in the list. In the statement of reasons enclosed with that letter, the Council pointed out, *inter alia*, that a decision had been taken with respect to the PMOI by a national authority, namely the order of the Home Secretary of the United Kingdom of 28 March 2001 proscribing the applicant as an organisation concerned in terrorism, and that that decision was still in force. In various letters, the PMOI submitted to the Council its observations in response, arguing that following the judgment in *OMPI*, no decision whatsoever to 'maintain' the applicant in the list could validly be adopted.

After several exchanges of letters between the Council and the PMOI, on 28 June 2007 the Council adopted **Decision 2007/445/EC** updating the fund-freezing list. The PMOI was still included in the list.

On 16 July 2007 the PMOI brought the present case, asking the Court to annul **Decision 2007/445**.

On 30 November 2007 the Proscribed Organisations Appeal Commission ('the POAC') allowed an appeal against the Home Secretary's decision refusing to lift the proscription of the PMOI as an organisation concerned in terrorism. It ordered the Home Secretary to remove the PMOI from the list of proscribed organisations. In that decision the POAC *inter alia* described as 'perverse' and 'unreasonable' the Home Secretary's conclusion that the applicant was still an organisation concerned in terrorism. Subsequently, the POAC refused an application by the Home Secretary for permission to lodge an appeal before the Court of Appeal on the ground that none of the arguments advanced by the Home Secretary had a reasonable chance of succeeding.

On 20 December 2007 the Council adopted **Decision 2007/868/EC** updating the list. The PMOI's name was included in that list. The Council took the view that the reasons for continuing to include the PMOI in the list still held good and observed that the Home Secretary had sought to bring an appeal against the POAC's decision.

In consequence, the PMOI made a request to the Court to be allowed to amend the form of order sought so that its application also sought annulment of **Decision 2007/868**.

The Home Secretary's application to the Court of Appeal for leave to bring an appeal before that Court against the POAC's decision was rejected on 7 May 2008. On 24 June 2008, the Parliament of the United Kingdom withdrew the PMOI from the national list of proscribed organisations. On 15 July 2008 the Council adopted **Decision 2008/583/EC** updating the fund-freezing list. The PMOI's name was included in that list. The Council noted in that regard that, even if the Home Secretary's order was no longer in force, 'new information concerning the group has been brought to the Council's attention. The Council considers that this new information warrants the group's inclusion on the list.' That decision is still in force and has not been challenged in the present proceedings. On 21 July 2008 the PMOI brought an action seeking annulment of that decision. That case, numbered T-284/08, is still pending before the Court.

³ Decision 2005/930/EC.

⁴ Judgment of the Court of First Instance in Case T-228/02 *Organisation des Modjahedines du peuple d'Iran v Council* [2006] ECR II-4665 (see also Press Release 97/06).

*The consequences of the OMPI judgment and the application for annulment of **Decision 2007/445***

First of all, the Court observes that by the OMPI judgment, the Court annulled Decision 2005/930 in so far as it concerned the PMOI.

Following that annulment, the Council was obliged to ensure that subsequent fund-freezing measures adopted after that judgment were not vitiated by the same defects. In this instance, the Council has satisfied that obligation by introducing and then setting in motion, immediately after delivery of the OMPI judgment, a new procedure in order to observe the formal and procedural rules set out by the Court in that judgment, and to enable the PMOI to enjoy the guarantees under that new procedure, before adopting Decision 2007/445.

The Council sent to the PMOI a statement clearly and unambiguously explaining the reasons justifying its continued inclusion in the list and sent it a number of documents from the file. The PMOI was also placed in a position to make its case properly regarding the evidence incriminating it. In those circumstances, the Council observed the PMOI's rights of the defence and satisfied its obligation to state reasons.

Lastly, with regard to the assessment of the evidence, the Court notes that verification that there is a decision of a national authority is an essential precondition for the adoption of an initial decision to freeze funds, whereas verification of the consequences of that decision at the national level is imperative in the context of the adoption of a subsequent decision to freeze funds. The Court observes that, in this instance, the Council essentially took as a basis the fact that the Home Secretary's order was still in force. The Council also took into consideration the observations and evidence submitted by the PMOI in their defence, but took the view that they did not justify its request to be removed from the list. The Court considers therefore that the Council had reasonable grounds and sufficient evidence for the adoption of Decision 2007/445 and that it committed no manifest error in its assessment of that information. The Council therefore justified to the required legal standard the continued inclusion of the PMOI in the list.

In consequence, **the Court dismisses the application for annulment of Decision 2007/445.**

*The application for annulment of **Decision 2007/868***

The Court considers that the POAC's decision is of considerable importance, inasmuch as it is the first decision of a competent judicial authority ruling on the lawfulness of the Home Secretary's refusal to withdraw the order on the basis of which the Council adopted both the initial decision to freeze the PMOI's funds and all the subsequent decisions. Because of the overriding necessity to verify the consequences at national level of decisions of a competent authority, having regard to all the relevant information at the date when Decision 2007/868 was adopted, and taking account of the particular circumstances of the case, the Court considers that the Council's statement of reasons (that Home Secretary intended to bring an appeal against the POAC's decision) is manifestly insufficient to provide legal justification for continuing to freeze the PMOI's funds.

The Court considers that that statement of reasons does not make it possible to understand the extent to which the Council actually took into account the POAC's decision, as it was required to do. The statement does not explain the specific and concrete reasons why the Council took the view, in spite of the findings of fact made by the POAC against which no appeal lies and the particularly severe legal conclusions for the Home Secretary drawn from those findings by the POAC, that the continued inclusion of the applicant in the list at issue remained justified in the light of the same body of facts and circumstances on which the POAC had had to rule. Lastly, the Court considers that while it is true that the Council could have regard to the existence of appeals against the POAC's decision and to the Home Secretary's actual recourse to them, it was not sufficient for the Council merely to state that the Home Secretary had sought to lodge an

appeal in order to be relieved of the need to take into specific consideration the findings of fact made by the POAC against which no appeal lies and the legal conclusions which it drew from those findings. That was all the more so because, on the one hand, the POAC had described the Home Secretary's refusal to lift the applicant's proscription as 'unreasonable' and 'perverse' and, on the other, when Decision 2007/868 was adopted, the Council had been informed of the POAC's refusal to grant the Home Secretary leave to introduce such an appeal on the ground that none of the arguments put forward stood a reasonable chance of succeeding before the Court of Appeal

Consequently, **the Court annuls Decision 2007/868 in so far as it concerns the PMOI.**

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: DE EN ES EL FR IT PT RO

The full text of the judgment may be found on the Court's internet site
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-256/07>

It can usually be consulted after midday (CET) on the day judgment is delivered.

For further information, please contact Christopher Fretwell

Tel: (00352) 4303 3355 Fax: (00352) 4303 2731

*Pictures of the delivery of the judgment are available on EbS "Europe by Satellite",
a service provided by the European Commission, Directorate-General Press and
Communications,*

L-2920 Luxembourg, Tel: (00352) 4301 35177 Fax: (00352) 4301 35249

or B-1049 Brussels, Tel: (0032) 2 2964106 Fax: (0032) 2 2965956