

In Search of Justice

European Committee for De-listing the PMOI



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January 5, 2009

Dear friends ,

I would like to draw your attention to the legal opinion by pre-eminent jurist Professor Antonio Cassese, on the implications of the 4th of December judgment of the Court of First Instance, annulling the Council decision so far as it concerned the inclusion of the People's Mojahedin Organisation of Iran in the EU terror list. Prof. Cassese is the Former Judge and President of the International Criminal Tribunal for the former Yugoslavia and member of the *Institut de droit international*,

In effect, the CFI judgment of 4th December virtually confirmed the previous legal opinion by Prof. Cassese on the 15 July 2008 Council Decision to maintain the PMOI on the EU terrorist list. At the time, Prof. Cassese wrote that the Council action had been unlawful. The Council's failure to uphold the law earned it the Court's rebuke.

In his legal opinion Prof. Cassese stresses:

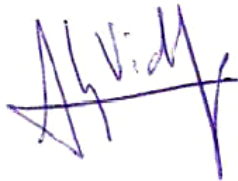
- *As a matter of principle judgments of the CFI must be given effect immediately;*
- *The annulment of the Decision, in the limited part concerning PMOI, immediately produces effects;.*
- *The Council is therefore duty bound to take all the consequential measures necessary to bring into effect such cessation of legal effects of its Decision (in the part concerning PMOI);*
- *Any contrary claim by the Council would stultify the action of the Court and amount to a serious misuse of power;*
- *Were the Council to rely on its claim that the annulment under discussion does not produce immediate legal effects for the purpose of gaining time so as to pass, under its six month review of the List, a new Decision putting again PMOI on the List, it would manifestly thwart the practical effects of the annulment by the CFI, thereby not only undermining the credibility of the CFI's role and function, but also blatantly violating the fundamental rights of due process laid down in European law and PMOI's right to judicial protection;*

- *In addition, the claim by the Council that the annulment does not produce immediate effects may amount to an abuse or misuse of power, in that the Council uses its functions with the exclusive purpose of “achieving an end other than that pleaded or for the purpose of evading a procedure specifically prescribed by the Treaty for dealing with the circumstances of the case.”*

The European Committee of In Search of Justice, supported by 2,000 European Parliamentarians, is very concerned about the way in which the Council has handled the PMOI case in that it no doubt constitutes a serious misuse of powers. The Council's continued defiance of the rule of law would lead to a constitutional crisis within EU.

We hope that before any damage to Europe's reputation as a Continent of laws, the Council would give effect to the judgment of the Court and remove the PMOI from the EU terror list. As Prof. Cassese makes is plain in his opinion, under no circumstance the Council can lawfully maintain the PMOI on the list and its only option is publish the new list without the PMOI on it.

Sincerely,



Alejo Vidal-Quadras
Vice President of the European Parliament
President of ISJ