62007A0341

Title and reference

Judgment of the Court of First Instance (Seventh Chamber) of 30 September 2009.

Jose Maria Sison v Council of the European Union.

Common foreign and security policy - Restrictive measures against certain persons and entities with a view to combating terrorism - Common Position 2001/931/CFSP and Regulation (EC) No 2580/2001 - Actions for annulment - Adaptation of heads of claim - Judicial review - Statement of reasons - Conditions for implementation of a Community measure freezing funds.

Case T-341/07.

European Court reports 2009 Page 00000

Text

BG	ES	CS	DA	DE	ET	EL	EN	FR	GA	IT	LV	LT	HU	MT	NL	PL	PT	RO	SK
html	html	html	html	html	html	html	html	html		html	html	html	html	html	html	html	html	html	html

Authentic language

- English

Dates

of document: 30/09/2009
of application: 10/09/2007

Classifications

- **Case law directory code:**
  B-20.05 European Economic Community/European Community / Acts of the institutions / Statement of the reasons on which a measure is based
  B-19.02.03 European Economic Community/European Community / Legal proceedings / Actions for annulment / Pleas in law
  G-02 European Union / Common foreign and security policy
  G-02 European Union / Common foreign and security policy
  G-02 European Union / Common foreign and security policy
- **Subject matter:**
  Common foreign and security policy

Miscellaneous information

- **Author:**
  Court of First Instance of the European Communities
- **Form:**
  Judgment

Procedure

- **Type of procedure:**
  Action for annulment, Action for damages
- **Applicant:**
  Person
- **Defendant:**
  Council, Institutions

Relationship between documents

- **Treaty:**
  European Economic Community
- **Instruments cited in case law:**
  11997E010 : N 94

  11997E060 : N 97

  11997E253 : N 67 69

  11997E301 : N 97

  11997E308 : N 97

  32001E0931 : N 117

  32001E0931-A01P3 : N 134

  32001E0931-A01P4 : N 68 91 - 93 95 96 99 100 102 104 105 107 112 115 121 122 135 137

  32001E0931-A01P6 : N 61 92

  32001E0931-C1 : N 111

  32001R2580 : N 60 116 117

  32001R2580-A02P3 : N 59 61 68 91 92 95 96 105 107 111 115 121 122 136

  32007D0445 : N 123

  32007D0868 : N 123

  62000J0339 : N 94

  62002J0066 : N 67

  62002A0228 : N 49 59 60 63 65 91 - 95 97

  62002A0303 : N 67

  62003A0047 : N 59 63 88 103 111

  62003J0105 : N 94

62004J0280 : N 110

62004J0525 : N 98

62007A0256 : N 48 60 61 63 65 67 69 91 - 98 116

62008A0284 : N 91 - 98 116

Select all documents mentioning this document

Text

Bilingual display: BG CS DA DE EL EN ES ET FI FR HU IT LT LV MT NL PL PT RO SK SL SV

Parties
Grounds
Operative part

Parties

In Case T-341/07,

Jose Maria Sison, residing in Utrecht (Netherlands), represented by J. Fermon, A. Comte, H. Schultz, D. Gürses and W. Kaleck, lawyers,

applicant,

v

Council of the European Union, represented by M. Bishop and E. Finnegan, acting as Agents,

defendant,

supported by

United Kingdom of Great Britain and Northern Ireland, represented by S. Behzadi Spencer and I. Rao, acting as Agents,

by

Kingdom of the Netherlands, represented by C. Wissels, M. de Mol, M. Noort and Y. de Vries, acting as Agents,

and by

Commission of the European Communities, represented by P. Aalto and S. Boelaert, acting as Agents,

interveners,

APPLICATION initially for, first, annulment in part of 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) and, secondly, for compensation,

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES (Seventh Chamber),

composed of N.J. Forwood (Rapporteur), President, D. Šváby and E. Moavero Milanesi, Judges,

Registrar: C. Kantza, Administrator,

having regard to the written procedure and further to the hearing on 30 April 2009,

gives the following

Judgment

Grounds

Background to the case

1. For a summary of the early background to this case, reference is made to the judgment of the Court of First Instance of 11 July 2007 in Case T-47/03 Sison v Council , not published in the European Court Reports (' Sison '), in particular to paragraphs 46 to 70, describing the administrative and judicial proceedings relating to the applicant, Mr Jose Maria Sison, in the Netherlands which gave rise to the judgments of the Raad van State (Council of State, Netherlands) of 17 December 1992 ('the judgment of the Raad van State of 1992') and of 21 February 1995 ('the judgment of the Raad van State of 1995') and also to the decision of the Arrondissementsrechtbank te's-Gravenhage (The Hague District Court, 'the Rechtbank'), Sector Bestuursrecht, Rechtseenheidskamer Vreemdelingenzaken (Administrative Law Section, Chamber responsible for the uniform application of the law, cases involving aliens) of 11 September 1997 ('the decision of the Rechtbank').

2. In Sison the Court of First Instance annulled Council Decision 2006/379/EC of 29 May 2006 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 Decision 2005/930/EC (OJ 2006 L 144, p. 21), in so far as it concerned the applicant, on the grounds that no statement of reasons had been given for the decision, that it had been adopted in the course of a procedure during which the applicant's rights of defence had not been observed and that the Court of First Instance itself was not in a position to undertake the judicial review of the lawfulness of that decision (see Sison , paragraph 226).

3. After the hearing in Sison , which was held on 30 May 2006, but before judgment was delivered, the Council of the European Union adopted Decision 2007/445/EC of 28 June 2007 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decisions 2006/379/EC and 2006/1008/EC (OJ 2007 L 169, p. 58). By that decision, the Council maintained the applicant's name in the list in the Annex to 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, corrigendum in OJ 2007 L 164, p. 36, 'the list at issue').

4. Before that decision was adopted, by letter of 23 April 2007 the Council informed the applicant that, in its view, the reasons for including him in the list at issue were still valid, and that it therefore intended to maintain him in that list. Enclosed with that letter was the Council's statement of reasons. The applicant was also informed that he could submit observations to the Council on the latter's intention to continue to maintain him in the list and on the reasons stated in that regard, and any supporting documents, within a period of one month.

5. In the statement of reasons enclosed with that letter, the Council noted the following:

'SISON, Jose Maria (alias Armando Liwanag, alias Joma, head of the Communist Party of the Philippines, including the NPA) born on 8.2.1939 in Cabugao, Philippines

Jose Maria Sison is the founder and leader of the Philippine Communist Party, including the New People's Army (NPA) (Philippines), which is put in the list of groups involved in terrorist acts in the meaning of Article 1, paragraph 2, of the Common Position 2001/931/CFSP. He has repeatedly advocated the use of violence for the realisation of political aims and has given leadership to the NPA, which is responsible for a number of terrorist attacks in the Philippines. These acts fall under Article 1, paragraph 3, point iii, ... (i) and (j) of Common Position 2001/931/CFSP (hereafter "the Common Position") and have been perpetrated with the intention as meant in Article 1, paragraph 3, point iii) of the Common Position.

The [Rechtbank] confirmed on 11 September 1997 ... [the judgment of the Raad van State]. The Administrative Law Division of the Raad van State came to the decision that the status of asylum seeker in the Netherlands was legitimately refused, because the proof was delivered that he gave leadership – or has tried to give – to the armed wing of the CPP, the NPA, which is responsible for a number of terrorist attacks in the Philippines, and because it also turned out that he maintains contacts with terrorist organisations throughout the whole world.

The Minister of Foreign Affairs and the Minister of Finance [of the Netherlands] decided, through ministerial ruling ("regeling") No DJZ/BR/749-02 of 13 August 2002 (Sanction regulation terrorism 2002 III), which was published in the Netherlands Gazette on 13 August 2002, that all means which belong to Jose Maria Sison and the Philippine Communist Party, including the Philippine New People's Army (NPA) be frozen.

The American Government named Jose Maria Sison as "Specially Designated Global Terrorist" (specifically named as a world ["mondial"] terrorist person pursuant to US Executive Order 13224. This decision can be reviewed according to American law.

Thus with regards to Jose Maria Sison, decisions have been taken by competent authorities in the meaning of Article 1, paragraph 4, of the Common Position.

The Council is convinced that the reasons to put Jose Maria Sison on the list of persons and entities to which the stated measures in Article 2, paragraphs 1 and 2 of Regulation (EC) No 2580/2001 are applicable, remain valid.'

6. By letter of 22 May 2007 the applicant submitted to the Council its observations in response. He claimed, inter alia, that neither the judgment of the Raad van State of 1995 nor the decision of the Rechtbank satisfied the requirements laid down by the relevant Community legislation to serve as a basis for a decision to freeze funds. He also requested that the Council should, first, give him an opportunity to be heard before a new decision to freeze funds was adopted and, secondly, send a copy of his written observations and all the procedural documents in Case T-47/03 to all the Member States.

7. Decision 2007/445 was notified to the applicant under cover of a letter from the Council of 29 June 2007. Enclosed with that letter was a statement of reasons identical

to that enclosed with the letter from the Council of 23 April 2007.

8. By Decision 2007/868/EC of 20 December 2007 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decision 2007/445 (OJ 2007 L 340, p. 100), the Council adopted a new updated list of the persons, groups and entities to whom and to which that regulation applies. The names of the applicant and of the NPA are repeated in that list, in the same terms as those used in the Annex to Decision 2007/445.

9. Decision 2007/868 was notified to the applicant under cover of a letter from the Council of 3 January 2008. Enclosed with that letter was a statement of reasons identical to that enclosed with the letters from the Council of 23 April and 29 June 2007.

10. By Decision 2008/343/EC of 29 April 2008 amending Decision 2007/868 (OJ 2008 L 116, p. 25), the Council maintained the applicant in the list at issue, although it amended the entries for the applicant and the Communist Party of the Philippines in the Annex to Decision 2007/868.

11. Article 1 of Decision 2008/343 provides:

'In the Annex to Decision 2007/868/EC, the entry for Mr Sison, Jose Maria (a.k.a. Armando Liwanag, a.k.a. Joma), shall be replaced by the following:

"SISON, Jose Maria (a.k.a Armando Liwanag, a.k.a. Joma), born 8.2.1939 in Cabugao (Philippines) — person playing a leading role in the Communist Party of the Philippines, including the NPA".'

12. Under Article 2 of Decision 2008/343:

'In the Annex to Decision 2007/868/EC the entry for the Communist Party of the Philippines shall be replaced by the following:

"Communist Party of the Philippines, including the New People's Army (NPA), linked to SISON, Jose Maria (a.k.a. Armanso Liwanag, a.k.a. Joma, who plays a leading role in the Communist Party of the Philippines, including the NPA)".'

13. Before that decision was adopted, by letter of 25 February 2008 the Council informed the applicant that, in its view, the reasons given for including him in the list at issue were still valid and that, therefore, it intended to maintain him in that list. First, the Council referred to the statement of reasons notified to the applicant by letter of 3 January 2008. Secondly, the Council stated that it had been provided with new information regarding decisions by a competent authority within the meaning of Article 1(4) of Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism (OJ 2001 L 344, p. 93), information which led it, after examination, to amend that statement of reasons. Enclosed with that letter was an updated statement of the reasons given by the Council. The applicant was also informed that he could submit observations to the Council on the latter's intention to maintain him in the list and on the reasons stated in that regard, and any supporting documents, within a period of one month.

14. The statement of reasons enclosed with the letter of 25 February 2008 essentially reproduces the statement of reasons previously notified to the applicant. The Council also added the following:

'The [Rechtbank] found, in its judgment of 13 September 2007 (LJN:BB3484), that there were many indications that Jose Maria Sison had been involved in the Central Committee (CC) of the CPP and its armed wing, the NPA. The court also concluded that there were indications that Jose Maria Sison was still playing a prominent role in the underground activities of the CC, the CPP and the NPA.

On appeal, the Court of Appeal of the Hague concluded, in its judgment of 3 October 2007 (LJN:BB4662), that the case file contained numerous indications that Jose Maria Sison continued to play a prominent role in the CPP, as leader or otherwise, throughout his many years in exile.'

15. By letter of 24 March 2008 the applicant submitted to the Council his observations in response. While reiterating the arguments he had previously raised before the Council, he claimed, in particular, that neither the judgment of the Rechtbank nor the judgment of the Court of Appeal of the Hague satisfied the requirements laid down by the relevant Community legislation to serve as a basis for a decision to freeze funds.

16. Decision 2008/343 was notified to the applicant under cover of a letter from the Council of 29 April 2008. Enclosed with that letter was a statement of reasons identical to that enclosed with the letter from the Council of 25 February 2008.

17. By Decision 2008/583/EC of 15 July 2008 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decision 2007/868 (OJ 2008 L 188, p. 21), the Council adopted a new updated list of the persons, groups and entities to whom and to which that regulation applies. The names of the applicant and of the NPA are repeated in that list, in the same terms as those used in the Annex to Decision 2007/868, as amended by Decision 2008/343.

18. Decision 2008/583 was notified to the applicant under cover of a letter from the Council of 15 July 2008. Enclosed with that letter was a statement of reasons identical to that enclosed with the letters from the Council of 25 February and 29 April 2008.

19. By Decision 2009/62/EC of 26 January 2009 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decision 2008/583 (OJ 2009 L 23, p. 25), the Council adopted a new updated list of the persons, groups and entities to whom and to which that regulation applied. The names of the applicant and of the NPA are repeated in that list, in the same terms as those used in the Annex to Decision 2007/868, as amended by Decision 2008/343.

20. Decision 2009/62 was notified to the applicant under cover of a letter from the Council of 27 January 2009. Enclosed with that letter was a statement of reasons identical to that enclosed with the letters from the Council of 25 February, 29 April and 15 July 2008.

21. By 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), the Council adopted a new updated list of the of the persons, groups and entities to whom and to which Regulation No 2580/2001 applied. The names of the applicant and of the NPA are repeated in that list, in the same terms as those used in the Annex to Decision 2009/62.

22. Regulation No 501/2009 was notified to the applicant under cover of a letter from the Council of 16 June 2009. There was enclosed with that letter a statement of reasons identical to that enclosed with the letter from the Council of 27 January 2009.

Procedure and forms of order sought by the parties

23. The applicant brought this action by application lodged at the Registry of the Court of First Instance on 10 September 2007. Initially, the subject-matter of the action was, first, a claim for annulment in part of Decision 2007/445 pursuant to Article 230 EC and, secondly, a claim for compensation pursuant to Articles 235 EC and 288 EC.

24. By separate document, lodged at the Court Registry on the same day, the applicant applied for the case to be decided under an expedited procedure pursuant to Article 76a of the Rules of Procedure of the Court of First Instance. The Council presented its observations on that application on 28 September 2007.

25. Before giving a ruling on that request, the Court (Seventh Chamber) decided, on 11 October 2007, to summon the parties to an informal meeting before the Judge-Rapporteur pursuant to Article 64 of the Rules of Procedure. That meeting was held on 8 November 2007.

26. On 13 November 2007 the Court (Seventh Chamber) decided to adjudicate under an expedited procedure, as regards the application for annulment pursuant to Article 230 EC, provided that the applicant submitted, within seven days, an abbreviated version of his application and a list of only those annexes which had to be taken into consideration, in accordance with the draft he had prepared for the informal meeting and with the Practice Directions to Parties (OJ 2007 L 232, p. 7).

27. At the parties' request, by order of 13 November 2007 the President of the Seventh Chamber of the Court of First Instance stayed proceedings in respect of the action for compensation pursuant to Articles 235 EC and 288 EC until delivery of the judgment to be given on the action for annulment pursuant to Article 230 EC.

28. In the abbreviated version of his application, lodged at the Court Registry on 19 November 2007, the applicant claims that the Court should:

– annul Decision 2007/445, in particular points 1.33 and 2.7 of the Annex thereto, in so far as those provisions concern the applicant;

– order the Council to pay the costs.

29. In its defence, lodged at the Court Registry on 5 December 2007, the Council contends that the Court should:

– dismiss the application;

– order the applicant to pay the costs.

30. By document lodged at the Court Registry on 24 January 2008, the applicant sought leave to amend the forms of order sought, his pleas in law and arguments so that they were directed against Decision 2007/868. In that document, he claims that the Court should:

– declare that amendment admissible and regard the application for annulment as directed against Decision 2007/868;

– annul in part Decision 2007/868, in particular, points 1.33 and 2.7 of the Annex thereto, in so far as those provisions concern him;

– order the Council to pay the costs

31. In its observations lodged at the Court Registry on 15 February 2008, the Council indicated its agreement to that request.

32. By orders of 12 February and 22 April 2008, after the parties had been heard, the President of the Seventh Chamber of the Court of First Instance granted the United Kingdom of Great Britain and Northern Ireland, the Kingdom of the Netherlands and the Commission of the European Communities leave to intervene in support of the form of order sought by the Council.

33. By letter of 7 May 2008 the Council lodged at the Registry copies of Decision 2008/343, of the letter by which it had notified the applicant of that decision and of the new statement of reasons enclosed with that letter. Those documents were placed in the file.

34. The applicant submitted his observations in response by document lodged at the Registry on 11 June 2008.

35. By document lodged at the Registry on 8 July 2008, the applicant sought leave to amend the forms of order sought, his pleas in law and arguments so that they were directed against Decision 2008/343. In that document he claims that the Court should:

– declare that amendment admissible and regard the application for annulment as directed against Decision 2008/343;

– annul in part Decision 2008/343, in particular Articles 1 and 2 of that decision, in so far as they mention his name;

– annul in part Decision 2007/868, in particular points 1.33 and 2.7 of the Annex thereto, in so far as those provisions concern him;

– annul in part Decision 2007/445, in accordance with the forms of order initially sought by him;

– order the Council to pay the costs.

36. In its observations, lodged at the Registry on 29 July 2008, the Council indicated its agreement to that request for leave to amend and responded to the arguments set out in that document.

37. By document lodged at the Registry on 15 September 2008, the applicant sought leave to amend the forms of order sought, his pleas in law and arguments so that they were directed against Decision 2008/583. In that document, he claims that the Court should:

– declare that amendment admissible and regard the application for annulment as directed against Decision 2008/583;

– annul in part Decision 2008/583, in particular points 1.26 and 2.7 of the Annex thereto, in so far as those provisions concern him;

– annul in part Decisions 2007/445, 2007/868 and 2008/343, in accordance with the previous forms of order sought by him;

– order the Council to pay the costs.

38. In its observations, lodged at the Registry on 10 October 2008, the Council indicated its agreement to that request.

39. By document lodged at the Registry on 26 February 2009, the applicant sought leave to amend the forms of order sought, his pleas in law and arguments so that they were directed against Decision 2009/62. In that document, he claims that the Court should:

– declare that amendment admissible and regard the application for annulment as directed against Decision 2009/62;

– annul in part Decision 2009/62, in particular points 1.26 and 2.7 of the Annex thereto, in so far as those provisions concern him;

– annul in part Decisions 2007/445, 2007/868, 2008/343 and 2008/583, in accordance with the previous forms of order sought by him;

– order the Council to pay the costs.

40. In its observations, lodged at the Registry on 18 March 2009, the Council indicated its agreement to that request.

41. Upon hearing the report of the Judge-Rapporteur, the Court of First Instance (Seventh Chamber) decided to open the oral procedure.

42. With the exception of the United Kingdom, which apologised for its absence, the parties presented oral arguments and their answers to the questions put by the Court at the hearing of 30 April 2009.

43. At the hearing, the Court requested the applicant to produce, within seven days, a document previously placed in the file before the Court in Case T-47/03 and again relied on by his counsel in his oral arguments in the present case, namely, the statement made on 8 October 2002, in reply to a parliamentary question, by the Minister for Foreign Affairs at that time, Mr J. de Hoop Scheffer, concerning the activities of the CPP, the NPA and the applicant in the Netherlands.

44. The applicant having complied with that request, the Court invited the other parties to submit written observations on that document within seven days, at the end of which the oral procedure was closed.

45. By document lodged at the Registry on 28 June 2009, the applicant requested the Court to reopen the oral procedure with a view to adopting a measure of organisation of procedure allowing him to amend the forms of order sought, his pleas in law and arguments in the light of the adoption of Regulation No 501/2009. In that document, he claims that the Court should:

– declare that amendment admissible and regard the application for annulment as directed against Regulation No 501/2009;

– annul in part Regulation No 501/2009, in particular points 1.24 and 2.7 of the Annex thereto, in so far as those provisions concern him;

– annul in part Decisions 2007/445, 2007/868, 2008/343, 2008/583 and 2009/62, in accordance with the previous forms of order sought by him;

– order the Council to pay the costs.

46. By order of 8 July 2009 the Court of First Instance (Seventh Chamber) decided to order the reopening of the oral procedure, in accordance with Article 62 of the Rules of Procedure. By letter from the Registry of 10 July 2009, the other parties were requested to express their views on the application for the adoption of measures of organisation of procedure contained in the document referred to in paragraph 45 above. Those parties having been heard, the Court reserved its decision on that application and the oral procedure was closed again by decision of 7 August 2009.

The procedural consequences of the repeal of the act originally challenged and of its replacement by other acts during the course of the proceedings

47. As is made clear in the foregoing, since the application was lodged Decision 2007/445 has been repealed and replaced, first by Decision 2007/868, then by Decision 2008/343, then by Decision 2008/583, then by Decision 2009/62 and finally by Regulation No 501/2009. The applicant has in turn sought leave to adapt his original claims so that his action is for annulment of those four decisions and of that regulation, in so far as those acts concern him. He has, moreover, maintained his claim for annulment of the earlier repealed acts, arguing, in that connection, with reference to the judgment of 3 April 2008 in Case T-229/02 PKK v Council , not published in the European Court Reports, paragraph 49 and the case-law cited, that he still has an interest in obtaining annulment of all the acts including or maintaining him in the list at issue, despite their repeal.

48. In accordance with settled case-law in the field of actions brought against successive fund-freezing measures adopted pursuant to Regulation No 2580/2001 (see Case T-256/07 People's Mojahedin Organization of Iran v Council [2008] ECR II-0000 (' PMOI I '), paragraphs 45 to 48 and the case-law cited), those applications must be allowed.

49. It is therefore appropriate in the present case to consider that, on the date on which the oral procedure was closed, having been reopened, the action was for annulment of Decisions 2007/445, 2007/868, 2008/343, 2008/583 and 2009/62 and also of Regulation No 501/2009, in so far as those acts concerned him, and to allow the parties to reformulate their claims, pleas in law and arguments in the light of those new factors, which implies, for them, the right to submit supplementary claims, pleas in law and arguments (see, to that effect, Case T-228/02 Organisation des Modjahedines du peuple d'Iran v Council [2006] ECR II-4665 (' OMPI '), paragraph 30).

50. The statement of the reasons pleaded by the Council in order to justify Decisions 2008/343, 2008/583 and 2009/62 and Regulation No 501/2009 containing additions, compared with the statement of the reasons pleaded in order to justify Decisions 2007/445 and 2007/868, and the applicant having, in consequence, amended his arguments in support of his claim for annulment of those decisions, the latter will be considered separately later in this judgment.

The claim for annulment of Decisions 2007/445 and 2007/868

51. In the present expedited procedure the applicant raises, in essence, four pleas in law in support of his claim for annulment of Decision 2007/445. The first alleges breach of the obligation to state reasons and a manifest error of assessment. The second alleges contravention of Article 2(3) of Regulation No 2580/2001 and of Article 1(4) of Common Position 2001/931. The third alleges breach of the principle of proportionality. The fourth alleges breach of general principles of Community law and of fundamental rights.

52. Furthermore, the applicant is of the view that those pleas in law and the underlying arguments justify, mutatis mutandis , annulment of Decision 2007/868 also.

The first plea in law: breach of the obligation to state reasons and manifest error of assessment

Arguments of the parties

53. The applicant maintains that the statement of reasons enclosed with the Council's letters of 23 April and 29 June 2007 fails to meet the requirement to state reasons laid down in Article 253 EC and clarified in the case-law.

54. In the first place, the Council did not answer the detailed observations communicated by the applicant on 22 May 2007, or even mention them, which shows that they were not taken into consideration.

55. In the second place, the statement of reasons enclosed with the letter of notification was plainly incorrect, and so could not be considered adequate in law. First, the statement of reasons was based on a series of unfounded and inaccurate allegations of fact (see, in that regard, paragraph 73 below). Secondly, the Council misinterpreted the judgment of the Raad van State of 1995 and the decision of the Rechtbank (see, in that regard, paragraphs 75 to 78 below). Thirdly, none of the four decisions relied on by the Council to justify the adoption of Decision 2007/445 meets the requirements of Article 2(3) of Regulation No 2580/2001 and Article 1(4) of Common Position 2001/931 (see, in that regard, paragraphs 74, 79 and 80 below).

56. In the third place, the statement of reasons enclosed with the letter of notification was not 'actual and specific', as referred to in Sison (paragraphs 198 and 217). First, the Council made only general assertions. Secondly, the Council did not explain why the freezing of the applicant's funds should still be justified 10 years after the decision of the Rechtbank and 12 years after the judgment of the Raad van State of 1995, which themselves referred to facts even further in the past. Thirdly, the Council did not explain how the freezing of the applicant's funds could actually contribute to the combating of terrorism. It did not provide any evidence to demonstrate in a reasonable manner that the applicant might use his funds to commit or facilitate acts of terrorism in the future.

57. The Council, also referring to its arguments in response to the second plea (paragraphs 82 to 85 below), submits that it complied with the requirement to state reasons for the decisions to freeze funds as set out in Sison , by providing the applicant with precise information indicating that appropriate decisions had been taken with regard to him by competent national authorities within the meaning of Article 1(4) of Common Position 2001/931. The statement of reasons enclosed with the letter of notification also stated that the Council was satisfied that the reasons leading to the applicant's inclusion in the list at issue were still valid.

58. The Council maintains, in that regard, that assessing whether restrictive measures must be maintained against a terrorist or a terrorist organisation is a matter of policy for which the legislature alone is responsible. It must take account of all the factors at issue, including, in particular, the person's past involvement in acts of terrorism and the perceived future intentions of that person. The nature of the decisions of the competent national authorities must also be taken into account. All those

matters concern both the security of individuals and the preservation of public order, in respect of which the Council enjoys broad discretion.

Findings of the Court

59. The purpose of the safeguard relating to the obligation to state reasons, in the context of the adoption of a decision to freeze funds taken pursuant to Article 2(3) of Regulation No 2580/2001, and the limitations of that safeguard which may lawfully be applied to the persons concerned, in such a context, have been defined by the Court of First Instance in OMPI (paragraphs 138 to 151), and Sison (paragraphs 185 to 198).

60. It follows in particular from paragraphs 143 to 146 and 151 of the judgment in OMPI that both the statement of reasons for an initial decision to freeze funds and the statement of reasons for subsequent decisions must refer not only to the legal conditions of application of Regulation No 2580/2001, in particular the existence of a national decision taken by a competent authority, but also to the actual and specific reasons why the Council considers, in the exercise of its discretion, that the person concerned must be made the subject of a measure freezing funds (see also PMOI I , point 81).

61. Furthermore, it is clear from both paragraph 145 of that judgment and from Article 1(6) of Common Position 2001/931, also referred to by Article 2(3) of Regulation No 2580/2001, that, while subsequent fund-freezing decisions must indeed be preceded by 'review' of the situation of the person concerned, that is in order to ascertain whether continuing to include him in the list at issue 'remains justified', where appropriate on the basis of new information or evidence (see also PMOI I , paragraph 82).

62. In this regard, the Court has, however, stated that, when the grounds of a subsequent decision to freeze funds are in essence the same as those already relied on when a previous decision was adopted, a mere statement to that effect may suffice, particularly when the person concerned is a group or entity (PMOI I , paragraph 82 and the case-law cited).

63. In the instant case, the Court finds that the Council duly complied with the principles thus laid down in OMPI, Sison and PMOI I , in adopting the contested decisions.

64. In the statements of reasons enclosed with its letters of 23 April and 29 June 2007 and of 21 January 2008 addressed to the applicant, the Council set out the relationship existing, in its view, between the applicant, the CPP and the NPA, and referred to a series of acts, supposedly carried out by the applicant or the NPA, which it believed were caught by the provisions of Article 1(3)(iii)(i) and (j) of Common Position 2001/931, and which it believed had been carried out for the purposes listed in Article 1(3)(iii) thereof. In the subsequent paragraphs of its statement of reasons the Council also referred to the judgment of the Raad van State of 1995, the decision of the Rechtbank, Ministerial Decree No DJZ/BR/749-02 of 13 August 2002 of the Netherlands Ministers for Foreign Affairs and for Finance ('the Sanctieregeling') and the decision of the United States Government designating the applicant as a 'Specially Designated Global Terrorist' in accordance with Executive Order No 13224, signed by President George W. Bush on 23 September 2001 ('the American decision'), a decision which the Council noted was open to challenge under the law of the United States. The Council inferred that decisions had been taken concerning the applicant as provided for by Article 1(4) of Common Position 2001/931. Next declaring that it was convinced that the reasons for including the applicant in the list at issue were still valid, the Council informed him of its decision to continue to impose on him the measures provided for in Article 2(1) and (2) of Regulation No 2580/2001.

65. For the rest, it must be acknowledged that the broad discretion enjoyed by the Council with regard to the matters to be taken into consideration for the purpose of adopting or of maintaining in force a measure freezing funds (OMPI , paragraph 159) extends to the evaluation of the threat that may be represented by an organisation having in the past committed acts of terrorism, notwithstanding the suspension of its terrorist activities for a certain period (PMOI I , paragraph 112).

66. In those circumstances, and in the light of the case-law cited in paragraph 62 above, the Council cannot, contrary to the applicant's submissions, be required to state with greater precision in what way freezing the applicant's funds may in concrete terms contribute to the fight against terrorism or to produce evidence to show that the applicant might use his funds to commit or facilitate acts of terrorism in the future.

67. In so far as the applicant complains that the Council relied on clearly incorrect reasoning, it is to be borne in mind that, according to settled case-law, the obligation to state reasons constitutes an essential procedural requirement which must be distinguished from the issue of the validity of the reasoning, the latter falling within the ambit of the substantive lawfulness of the contested act (Case C-66/02 Italy v Commission [2005] ECR I-10901, paragraph 26; Case T-303/02 Westfalen Gassen Nederland v Commission [2006] ECR II-4567, paragraph 72, and PMOI I , paragraph 85). Thus, a challenge to the merits of that reasoning may not be examined at the stage of verifying whether the obligation laid down by Article 253 EC has been performed (Italy v Commission , paragraph 55).

68. That complaint must, therefore, be rejected as ineffective in relation to this plea in law. It will, however, be taken into consideration in the examination of the plea alleging contravention of Article 2(3) of Regulation No 2580/2001 and of Article 1(4) of Common Position 2001/931, with regard to which it might be relevant (see paragraph 87 below).

69. Inasmuch as the applicant complains that the Council failed to answer his written observations, it is to be recalled that although, by virtue of Article 253 EC, the Council is required to state all the factual circumstances justifying the measures it adopts and the legal considerations leading it to take them, that provision does not require the Council to discuss all the points of fact and law which may have been raised by the persons concerned during the administrative procedure (PMOI I , paragraph 101 and the case-law cited).

70. That complaint must, therefore, be rejected as ineffective in relation to this plea in law. It will, however, be taken into consideration in the examination of the plea alleging breach of the rights of defence.

71. It follows from the foregoing that the alleged breach of the obligation to state reasons has not, in the circumstances of this case, been established, with the result that the first plea in law must be rejected.

The second plea: contravention of Article 2(3) of Regulation No 2580/2001 and of Article 1(4) of Common Position 2001/931

Arguments of the parties

72. The applicant maintains that the legal conditions laid down in Article 2(3) of Regulation No 2580/2001 and Article 1(4) of Common Position 2001/931 have not been satisfied in this case.

73. In the first place, the factual allegations made by the Council are incorrect and unfounded. They do not, therefore, constitute 'precise information or material in the relevant file' within the meaning of the relevant provisions. First, the Council incorrectly and without any evidence claims that the applicant is Armando Liwanag. Secondly, the Council incorrectly and without any evidence claims that the applicant is the leader or the head of the 'Communist Party of the Philippines, including the NPA [New People's Army]'. Thirdly, the Council incorrectly and without any evidence states that the applicant 'advocates the use of violence', despite his role in the Philippines peace process. Fourthly, the Council incorrectly and without any evidence claims that the applicant has given instructions to the NPA concerning alleged terrorist attacks in the Philippines.

74. In the second place, neither the Raad van State in 1995 nor the Rechtbank in 1997 had jurisdiction to open an investigation or bring criminal proceedings in connection with an act of terrorism. In that regard, although the Raad van State and the Rechtbank are judicial authorities, they cannot be regarded as 'competent authorities' pursuant to the relevant provisions.

75. Moreover, the Council has completely misinterpreted the judgment of the Raad van State of 1995 and the decision of the Rechtbank.

76. First, the Rechtbank had not 'confirmed' the judgment of the Raad van State of 1995, since the question before it was totally different from that before the Raad van State. On the one hand, the Raad van State had to determine whether or not the Netherlands Minister for Justice could apply to the applicant Article 1(F) of the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967 ('the Geneva Convention'), in order to deny him refugee status. The Raad van State answered that question in the negative and recognised that the applicant had refugee status, pursuant to Article 1(A) of that convention. On the other hand, the Rechtbank had to determine whether the Netherlands Minister for Justice could lawfully refuse to grant the applicant a Netherlands residence permit, although he had been recognised as a refugee, on grounds of public interest. The Rechtbank 'confirmed' the judgment of the Raad van State only insofar as it ruled that Article 1(F) of the Geneva Convention does not apply to the applicant.

77. Secondly, the Netherlands courts did not actually find or state that the applicant was 'responsible for a number of terrorist attacks in the Philippines', because that issue was never brought before them. The Rechtbank was required to decide whether the Minister for Justice could refuse to grant a residence permit to the applicant 'on important grounds of public interest' and, in particular, taking into account the 'essential interests of the Netherlands State, namely the integrity and credibility of the Netherlands as a sovereign State, particularly with regard to its responsibilities towards other States'. It is clear that the concept of 'public interest' is not equivalent to that covered by the expression 'to perpetrate or facilitate a terrorist act'. Similarly, the Raad van State had to rule on the applicability of Article 1(F) of the Geneva Convention. On that occasion, the Raad van State took the view that the evidence produced by the Netherlands security services 'd[id] not provide support for the conclusion that the [applicant had] directed the [NPA terrorist] operations [in the Philippines] and [wa]s responsible for them to such an extent that it may be held that there [we]re serious reasons to suppose that the [applicant] ha[d] actually committed the serious crimes referred to in [Article 1(F) of the Geneva Convention]'.

78. Thirdly, the Netherlands courts did not find that the applicant 'maintains contacts with terrorist organisations throughout the whole world'. In its decision, the Rechtbank merely referred, as an incidental matter, to 'indications of personal contacts between the appellant and representatives of terrorist organisations'. The applicant denies having had such contacts and points out that he has not had access to the documents of the Netherlands security services on which that finding of the Rechtbank is based, which, in his submission, constitutes a violation of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ('the ECHR'), signed at Rome on 4 November 1950. In any event, the applicant claims that mere contacts with members of an organisation regarded as terrorist by the national authorities does not, in itself, constitute an act of participation in or facilitation of a terrorist act, for the purposes of Article 1(4) of Common Position 2001/931.

79. In the third place, with regard, first, to the Sanctieregeling (see Sison , paragraph 80) and, secondly, to the American decision (see Sison , paragraph 79), the applicant points out that those are decisions taken by administrative authorities, and not decisions taken by judicial or equivalent authorities. Those decisions cannot, therefore, be regarded as having been taken by a 'competent authority' within the meaning of the relevant provisions.

80. With regard to the fact, relied on by the Council, that the American decision 'can be reviewed according to American law', the applicant submits that that does not make the decision that of a judicial authority. He adds that the fact that he has not yet challenged that decision is due precisely to his lack of financial means to do so, on account of the freezing of funds imposed by Decision 2007/445, and not because he accepts it.

81. The Council submits that the legal requirements laid down in Article 2(3) of Regulation No 2580/2001 and Article 1(4) of Common Position 2001/931 have been satisfied in the present case.

82. In the first place, it argues, first, that all the factual allegations made in the statement of reasons annexed to the letter of notification are accurate and, second, that it interpreted correctly the judgment of the Raad van State of 1995 and the decision of the Rechtbank. It contends that the way in which the applicant has presented those

facts, the judgment and the decision is inaccurate and misleading.

83. In that regard, the Council refers to the description of the administrative and judicial procedures relating to the applicant in the Netherlands and to the summary of the judgment of the Raad van State of 1995 and of the decision of the Rechtbank set out in paragraphs 49, 50 and 56 to 70 of Sison . In the light of that information, the applicant is wrong to regard as unfounded the Council's assertions that: he is the leader of the CPP, including the NPA; he has advocated the use of violence; he has directed or sought to direct the NPA, a group responsible for numerous terrorist attacks in the Philippines, and he has maintained contacts with terrorist organisations all over the world. It is also misleading for the applicant to claim that he has been recognised as a refugee by the Raad van State and the Rechtbank. In fact, the applicant has never been granted refugee status or a residence permit in the Netherlands, as was confirmed by the Rechtbank.

84. With regard to the applicant's claim that he was unable to defend himself to advantage before the Rechtbank because he had not had access to certain information in the file, treated as confidential (see paragraph 78 above), the Council counters by stating, first, that that argument concerns the procedure before the competent national court and, secondly, that the applicant had at the time agreed that the information in the file in question should be examined by the President of the Rechtbank and considered by the Rechtbank without his being notified of it, as is apparent from paragraph 6 of the decision of the Rechtbank (see also Sison , paragraph 62).

85. The Council argues, in the second place, that the Raad van State and the Rechtbank regarded as established the facts referred to in the statement of reasons annexed to the letter of notification and reproduced in paragraph 83 above. Those facts fall, in its submission, within the ambit of Article 1(3)(iii)(i) (threatening to commit terrorist acts) and (j) (directing a terrorist group) of Common Position 2001/931. The Council believes, therefore, that Article 2(3) of Regulation No 2580/2001 was correctly applied to the applicant's situation and that in that regard it did not make a manifest error of assessment, which alone is open to review by the Court (Sison , paragraph 206).

86. The Council argues, in the third place, with regard to the decisions taken by the Netherlands and United States administrative authorities concerning the applicant (see paragraph 79 above), that Article 1(4) of Common Position 2001/931 does not require the decision of the competent national authority necessarily to be taken by a judicial authority. It points out, moreover, that those decisions are open to review by the courts of the Netherlands and the United States. In any event, the Council submits that it based the contested decisions, not on the decisions in question, but on the judgment of the Raad van State of 1995 and on the decision of the Rechtbank.

Findings of the Court

87. The applicant's complaint that the allegations as to fact contained in the statements of reasons annexed to the Council's letters of 23 April and 29 June 2007 and of 21 January 2008 are incorrect and baseless must be examined first. This complaint is essentially the same as that, put forward in relation to the first plea in law, alleging that the reasons annexed to the letters of notification were plainly incorrect (see paragraph 55 above).

88. It must be stated that the allegations in question – other than that claiming the applicant to be Armando Liwanag, which is in any case quite irrelevant in the circumstances – are substantiated in due fashion by the material in the file produced before the Court and, more particularly, by the findings of fact made by the Raad van State and repeated by the Rechtbank, which possess the force of res judicata . It is sufficient, here, to refer to paragraphs 46 to 70 of Sison , reproduced in paragraph 106 below.

89. In the circumstances, the applicant's complaints alleging an error, indeed, even a manifest error, in the assessment of the facts must be dismissed as unfounded.

90. The second subject of examination must be the applicant's complaints, taken together, that it is not possible to identify in the judgment of the Raad van State of 1995, or the decision of the Rechtbank, or the Sanctieregeling or the American decision a decision taken by a competent authority for the purpose of Article 2(3) of Regulation No 2580/2001 or of Article 1(4) of Common Position 2001/931.

91. The Court notes that in its judgments in OMPI and PMOI I and in Case T-284/08 People's Mojahedin Organization of Iran v Council [2008] ECR II-0000 (' PMOI II '), it clarified: (a) the conditions for implementing Article 1(4) of Common Position 2001/931 and Article 2(3) of Regulation No 2580/2001; (b) the burden of proof incumbent on the Council in that context; and (c) the scope of judicial review in such matters.

92. As the Court pointed out in paragraphs 115 and 116 of OMPI , in paragraph 130 of PMOI I and in paragraph 50 of PMOI II , the matters of fact and law capable of affecting the application of a fund-freezing measure to a person, group or entity are determined by Article 2(3) of Regulation No 2580/2001. In the words of that provision, the Council, acting by unanimity, is to establish, review and amend the list of persons, groups and entities to whom and to which that regulation applies, in accordance with the provisions laid down in Article 1(4) to (6) of Common Position 2001/931. The list in question must, therefore, be drawn up, in accordance with Article 1(4) of Common Position 2001/931, on the basis of precise information or material in the relevant file which indicates that a decision has been taken by a competent authority in respect of the persons, groups and entities concerned, irrespective of whether it concerns the instigation of investigations or prosecution for a terrorist act, or an attempt to perpetrate, participate in or facilitate such an act, based on serious and credible evidence or clues [sic], or condemnation [sic] for such deeds. 'Competent authority' means a judicial authority or, where judicial authorities have no competence in that area, an equivalent authority in that sphere. In addition, the names of the persons and entities appearing in that list must be reviewed at regular intervals and at least once every six months to ensure that there are still grounds for keeping them in the list, in accordance with Article 1(6) of Common Position 2001/931.

93. In paragraph 117 of OMPI , paragraph 131 of PMOI I and paragraph 51 of PMOI II , the Court inferred from those provisions that the procedure which may culminate in a measure to freeze funds under the relevant legislation takes place at two levels, one national, the other Community. In the first stage, a competent national authority, as a rule judicial, must take in respect of the party concerned a decision satisfying the definition in Article 1(4) of Common Position 2001/931. If it is a decision to instigate investigations or to prosecute, it must be based on serious and credible evidence or 'clues'. In the second stage, the Council, acting by unanimity, must decide whether to include the party concerned in the disputed list, on the basis of precise information or material in the relevant file which indicates that such a decision has been taken. Next, the Council must, at regular intervals, and at least once every six months, be satisfied that there are grounds for continuing to include the party concerned in the list at issue. Verification that there is a decision of a national authority meeting that definition is an essential precondition for the adoption, by the Council, 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.

94. In paragraph 123 of OMPI , paragraph 132 of PMOI I and paragraph 52 of PMOI II , the Court noted, inter alia, that under Article 10 EC, relations between the Member States and the Community institutions are governed by reciprocal duties to cooperate in good faith (see Case C-339/00 Ireland v Commission [2003] ECR I-11757, paragraphs 71 and 72 and the case-law cited). That principle is of general application and is binding in, inter alia, the area of police and judicial cooperation in criminal matters (commonly known as 'Justice and Home Affairs') (JHA) governed by Title VI of the EU Treaty, which is moreover entirely based on cooperation between the Member States and the institutions (Case C-105/03 Pupino [2005] ECR I-5285, paragraph 42).

95. In paragraph 124 of OMPI , paragraph 133 of PMOI I and paragraph 53 of PMOI II , the Court found that, in a case of application of Article 1(4) of Common Position 2001/931 and Article 2(3) of Regulation No 2580/2001, provisions which introduce a specific form of cooperation between the Council and the Member States in the context of combating terrorism, that principle entails, for the Council, the obligation to defer as far as possible to the assessment conducted by the competent national authority, at least where it is a judicial authority, in particular in respect of the existence of 'serious and credible evidence or clues' on which its decision is based.

96. As the Court ruled in paragraph 134 of PMOI I and in paragraph 54 of PMOI II , it follows from the foregoing that, although it is indeed for the Council to prove that freezing of the funds of a person, group or entity is or remains legally justified, in the light of the relevant legislation, that burden of proof has a relatively limited purpose in respect of the Community procedure for freezing funds. In the case of an initial decision to freeze funds, the burden of proof essentially relates to the existence of precise information or material in the relevant file which indicates that a decision by a national authority meeting the definition laid down in Article 1(4) of Common Position 2001/931 has been taken with regard to the person concerned. Furthermore, in the case of a subsequent decision to freeze funds, after review, the burden of proof essentially relates to whether the freezing of funds is still justified, having regard to all the relevant circumstances of the case and, most particularly, to the action taken following that decision of the competent national authority.

97. With regard to the review carried out by the Court, the latter has recognised, in paragraph 159 of OMPI , paragraph 137 of PMOI I and paragraph 55 of PMOI II , that the Council has broad discretion as to what matters to take into consideration for the purpose of adopting economic and financial sanctions on the basis of Articles 60 EC, 301 EC and 308 EC, consistent with a common position adopted on the basis of the common foreign and security policy. This discretion concerns, in particular, the assessment of the considerations of appropriateness on which such decisions are based.

98. However, although the Court acknowledges that the Council possesses some latitude in that sphere, that does not mean that the Court is not to review the interpretation made by the Council of the relevant facts (see PMOI I , paragraph 138, PMOI II , paragraph 55). The Community judicature must not only establish whether the evidence relied on is factually accurate, reliable and consistent, but must also ascertain whether that evidence contains all the relevant information to be taken into account in order to assess the situation and whether it is capable of substantiating the conclusions drawn from it. However, when conducting such a review, it must not substitute its own assessment of what is appropriate for that of the Council (see, by analogy, Case C-525/04 P Spain v Lenzing [2007] ECR I-9947, paragraph 57 and the case-law cited).

99. In the instant case, it is first of all to be ascertained, in accordance with that case-law, whether the contested decisions were taken on the basis of precise information or material in the file indicating that a decision meeting the definition laid down in Article 1(4) of Common Position 2001/931 had been taken with regard to the applicant.

100. In this respect, the statements of reasons annexed to the Council's letters of 23 April and 29 June 2007 and of 21 January 2008 addressed to the applicant make reference to four decisions which could be presumed to have been taken by competent authorities for the purpose of Article 1(4) of Common Position 2001/931, namely: the judgment of the Raad van State of 1995, the decision of the Rechtbank, the Sanctieregeling and the American decision.

101. In its defence (paragraph 31) the Council asserted, however, that for the purposes of these proceedings, and although it considered that it was entitled to treat the Sanctieregeling and the US decision as decisions of competent authorities within the meaning of that provision on which it could have based its own decision, it relied on the judgment of the Raad van State of 1995 and the decision of the Rechtbank alone as constituting such decisions.

102. At the hearing the Council and the Kingdom of the Netherlands expressly confirmed that point in answer to a question put by the Court, making it clear that the judgment of the Raad van State of 1995 and the decision of the Rechtbank were indeed the only two decisions taken by competent authorities, within the meaning of Article 1(4) of Common Position 2001/931, on which the contested decisions were based. The Council went on to state that it had taken the Sanctieregeling and the US decision into consideration, in exercising its discretion, only as facts intended to bear out the findings made in the two decisions in question, concerning the applicant's continuing involvement in the CPP and the NPA.

103. Those explanations, in keeping moreover with those previously given by the Council and the Kingdom of the Netherlands in Case T-47/03 (see Sison, paragraphs 211 and 222), are tantamount to a formal admission which must benefit the applicant, given that they are not clearly inconsistent with the actual wording of the decisions contested in this action.

104. Furthermore, it has not been established, or even claimed, that the contested decisions were taken on the basis of another decision of a competent authority, within

the meaning of Article 1(4) of Common Position 2001/931. In particular, it has not been argued that the applicant is or was the subject of any decision to investigate or of any prosecution or of any conviction and sentence whatsoever in the Philippines, in connection with the alleged terrorist activities of the CPP and the NPA.

105. In consequence, the Court must confine its review of the lawfulness of the contested decisions, in the light of the requirements recalled above laid down in Article 1(4) of Common Position 2001/931 and in Article 2(3) of Regulation No 2580/2001, exclusively to the examination of the judgment of the Raad van State of 1995 and of the decision of the Rechtbank.

106. In this regard it is appropriate to begin by recalling the context in which the judgment of the Raad van State of 1995 was delivered and the decision of the Rechtbank made, and the exact content and significance of that judgment and of that decision, as they were defined by the Court in Sison , paragraphs 46 to 70:

'46 The papers before the Court indicate that the applicant, who has Filipino nationality, has resided in the Netherlands since 1987. In September 1988, after the Philippine Government withdrew his passport, he applied for refugee status and a residence permit in the Netherlands on humanitarian grounds. That application was refused by decision of the State Secretary for Justice ("the State Secretary") of 13 July 1990, on the basis of Article 1F of the Geneva Convention ...

47 His request for a review of that decision having been impliedly rejected by the State Secretary, the applicant brought an action before the Raad van State (Netherlands Council of State) against that implied decision to reject.

48 By judgment of 17 December 1992 ("the judgment of the Raad van State of 1992"), the Raad van State annulled the implied decision to reject. It held essentially that the State Secretary had not demonstrated to the requisite legal standard which of the acts allegedly committed by the applicant had led him to conclude that the applicant fell within the scope of Article 1F of the Geneva Convention. The Raad van State stated in that regard that the documents supplied to it on a confidential basis by the State Secretary were not sufficiently clear on the point. Since the confidential nature of the documents in question meant that that lack of clarity could not be remedied by an inter partes hearing, the Raad van State held that the information contained in those documents, in so far as it was unclear, could not be construed in a manner which was unfavourable to the applicant.

49 By decision of 26 March 1993, the State Secretary again rejected the applicant's request for a review of his decision of 13 July 1990. That decision to reject was taken primarily on the basis of Article 1F of the Geneva Convention and in the alternative on the basis of the second paragraph of Article 15 of the Vreemdelingenwet (Netherlands Law on Aliens), by reason of the overriding interests of the Netherlands State, that is to say the integrity and credibility of the Netherlands as a sovereign State, particularly with regard to its responsibilities towards other States.

50 In an action to challenge that [decision] brought by the applicant, the Raad van State annulled the State Secretary's decision of 26 March 1993 by judgment of 21 February 1995 ("the judgment of the Raad van State of 1995".

51 In that judgment, the Raad van State held that the State Secretary had reached his decision on the basis of the following factors:

– a letter from the Binnenlandse Veiligheidsdienst (Netherlands internal security service, "the BVD") of 3 March 1993, which stated, first, that the applicant held the post of chairman and was the head of the Communist Party of the Philippines ("the CPP") and, second, that the military wing of the CPP, the NPA, was under the Central Committee of the CPP and, accordingly, the applicant;

– the findings of the BVD, first, that the applicant was, in fact, the head of the NPA and, second, that the NPA – and thus the applicant – was responsible for a large number of terrorist acts in the Philippines.

52 The Raad van State noted the following examples of such terrorist acts, given by the State Secretary in his decision of 26 March 1993:

– the murder of 40 inhabitants (mostly defenceless women and children) of the village of Digos, on the Island of Mindanao (Philippines) on 25 June 1989;

– the shooting of 14 people, including six children, in the village of Dipalog (Philippines) in August 1989;

– the execution of four inhabitants of the village of Del Monte (Philippines) on 16 October 1991.

53 The Raad van State also noted that the State Secretary had mentioned the purges carried out in 1985 in the CPP and the NPA, in the course of which it was estimated that 800 of their members were assassinated without any form of trial taking place.

54 Lastly, the Raad van State noted that, according to the State Secretary, the BVD had also determined that the CPP and the NPA maintained contacts with terrorist organisations throughout the world and that personal contacts between the applicant and representatives of those organisations had also been observed.

55 The Raad van State next examined by special procedure certain confidential evidence in the State Secretary's file together with the "operational material" on which the letter sent to him by the BVD on 3 March 1993 (paragraph 51 above) was based.

56 Taking the above matters into account, the Raad van State went on to rule as follows:

"In the light of the above evidence, the [Raad van State] holds there to be sufficient indication that the [applicant] was, at the time the decision [of 26 March 1993] was taken, the chairman and the head of the CPP. In addition, the evidence supports the conclusion that the NPA is subject to the Central Committee of the CPP and the conclusion that, at the time the decision [of 26 March 1993] was taken, the [applicant] had at least attempted to effectively direct the NPA from the Netherlands. The [Raad van State] also holds there to be sufficient indication based on public sources alone, such as reports by Amnesty International, that the NPA is responsible for a large number of terrorist acts in the Philippines. The evidence also provides support for the conclusion that the [applicant] has at least attempted to direct the abovementioned activities carried out under the control of the NPA in the Philippines. The evidence supplied also provides support for the [State Secretary's] contention that the CPP/NPA maintain contacts with terrorist organisations throughout the world and that there have been personal contacts between the [applicant] and representatives of such organisations. However, the evidence does not provide support for the conclusion that the [applicant] directed the operations in question and is responsible for them to such an extent that it may be held that there are serious reasons to suppose that the [applicant] has actually committed the serious crimes referred to in [Article 1F of the Geneva Convention]. In that regard, the [Raad van State] has expressly taken into account the fact that, as it has already held in its judgment of 17 December 1992, Article 1F of the Geneva Convention must be narrowly construed.

The [Raad van State] considers accordingly that the [State Secretary] was not entitled to conclude, on the basis of the abovementioned evidence, that the [applicant] should be denied the protection afforded by the [Geneva] Convention."

57 The Raad van State also held that the applicant had sound reasons to fear that he would be persecuted if he was sent back to the Philippines and that he should accordingly be treated as a refugee for the purposes of Article 1(A)(2) of the Geneva Convention.

58 The Raad van State then considered the merits of the State Secretary's alternative reason for refusing the applicant admission to the Netherlands on grounds of public interest, on the basis of the second paragraph of Article 15 of the Netherlands Law on Aliens.

59 In that regard, the Raad van State held in particular as follows:

"While the [Raad van State] acknowledges the importance of the [State Secretary's] concern, particularly in view of the indications he has recorded of personal contacts between the [applicant] and representatives of terrorist organisations, that cannot justify recourse to the second paragraph of Article 15 of the Law on Aliens if there is no guarantee that the [applicant] will be permitted to enter a country other than the Philippines. It is precluded by the fact that such a refusal to admit the [applicant] must be regarded as being contrary to Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms."

60 Following that judgment, the State Secretary, by decision of 4 June 1996, again rejected the applicant's request for review of his decision of 13 July 1990. He ordered the applicant to leave the Netherlands, but decided at the same time that the applicant should not be deported to the Philippines for so long as he had a well-founded fear of being persecuted within the meaning of the Geneva Convention or of treatment contrary to Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the ECHR").

61 By decision of 11 September 1997 ... [the Rechtbank] dismissed the action brought by the applicant against the State Secretary's decision of 4 June 1996 on the basis that it was unfounded.

62 In the course of the proceedings before the Rechtbank, all the documents relating to the investigation carried out by the BVD into the applicant's activities in the Netherlands, and in particular the letter from that organisation to the State Secretary of 3 March 1993 (paragraph 51 above), as well as the operational material on which that letter is based, were produced in confidence to the Rechtbank. The President of the Rechtbank examined them under a special procedure. On the basis of the report prepared by its President, the Rechtbank decided that the restriction on making those documents available to the applicant was justified. As the latter had given the consent to that effect required by the legislation, the Rechtbank none the less took account of the content of those documents in order to decide the case.

63 The Rechtbank then considered whether the decision contested before it could be upheld, in so far as it refused the applicant admission as a refugee and the granting to him of a residence permit.

64 With regard to the facts on which the decision was based, the Rechtbank referred back to the judgment of the Raad van State of 1995.

65 On the basis of that judgment, the Rechtbank considered that it must be regarded as settled in law that Article 1F of the Geneva Convention could not be invoked against the applicant, that the latter had a well-founded fear of being persecuted within the meaning of Article 1A of that Convention and of Article 15 of the Netherlands Law on Aliens and that Article 3 of the ECHR prevented the applicant from being deported, directly or indirectly, to his country of origin.

66 The Rechtbank next considered the question whether the judgment of the Raad van State of 1995 entitled the State Secretary to refuse the applicant admission as a refugee, pursuant to the second paragraph of Article 15 of the Netherlands Law on Aliens, which provides that "admission can be refused only on important grounds of public interest if that refusal would compel the alien to go immediately to a country referred to in the first paragraph", when the State Secretary had failed to guarantee the applicant admission to a country other than the Philippines.

67 In that regard the Rechtbank quoted in full the paragraph of the judgment of the Raad van State of 1995 set out in paragraph 59 above.

68 The Rechtbank then ruled on the question whether the State Secretary had properly exercised his power to derogate from the rule that an alien is normally to be admitted to the Netherlands as a refugee where he can establish a well-founded fear of being persecuted within the meaning of Article 1A of the Geneva Convention and no other country w ill admit him as an asylum seeker, as, in the Rechtbank's opinion, was the position in that case. In that regard, the Rechtbank held as follows:

"In the opinion of the Rechtbank, it cannot be argued that the [State Secretary] has not used this power reasonably in respect of the [applicant], taking into account the 'essential interests of the Netherlands State, namely the integrity and credibility of the Netherlands as a sovereign State, particularly with regard to its responsibilities

towards other States', also recognised by the [Raad van State]. The facts on which the [Raad van State] based that assessment are also of overriding importance as far as the Rechtbank is concerned. It has not been shown that a different significance should have been attributed to those facts by the [State Secretary] at the time the decision [at issue in the case] was taken. The [applicant's] observations on the changed political situation in the Philippines and on his role in the negotiations between the Philippine authorities and the [CPP] do not affect that, since the important reasons – as is clear from the judgment of the [Raad van State] – are based on other facts."

69 The Rechtbank accordingly dismissed as unfounded the applicant's appeal against the refusal to admit him to the Netherlands as a refugee.

70 The Rechtbank also dismissed as unfounded the applicant's challenge to the refusal to grant him a residence permit. Ruling more particularly on the question whether the State Secretary had taken his decision after a reasonable weighing up of interests, the Rechtbank referred to its findings quoted in paragraph 68 above and added that the State Secretary had acted reasonably in attaching less weight to the interests invoked by the applicant in that regard.'

107. Having regard to their content, significance and context, the Court considers that neither the judgment of the Raad van State of 1995 nor the decision of the Rechtbank constitutes a decision taken by a competent authority within the meaning of Article 1(4) of Common Position 2001/931 and of Article 2(3) of Regulation No 2580/2001.

108. On the one hand, that judgment and that decision contain no evidence at all of any 'condemnation' [sic] of the applicant, within the meaning of those provisions.

109. Nor, on the other hand, do that judgment and that decision constitute decisions for the 'instigation of investigations or prosecution for a terrorist act' etc., within the meaning of those provisions.

110. It should be borne in mind that, in determining the purport of a provision of Community law, its wording, context and objectives must all be taken into account (see Case C-280/04 Jyske Finans [2005] ECR I-10683, paragraph 34 and the case-law cited).

111. The Court considers that, having regard both to the wording, context and objectives of the provisions at issue in this case (see, especially, the first recital in the preamble to Common Position 2001/931) and to the major part played by the national authorities in the fund-freezing process provided for in Article 2(3) of Regulation No 2580/2001 (see Sison , paragraph 164 et seq.), a decision to 'instigat[e] ... investigations or prosecut[e]' must, if the Council is to be able validly to invoke it, form part of national proceedings seeking, directly and chiefly, the imposition on the person concerned of measures of a preventive or punitive nature, in connection with the combating of terrorism and by reason of that person's involvement in terrorism. That requirement is not satisfied by a decision of a national judicial authority ruling only incidentally and indirectly on the possible involvement of the person concerned in such activity, in relation to a dispute concerning, for example, rights and duties of a civil nature.

112. That narrow interpretation of the concept of 'instigation of investigations or prosecution' is confirmed, in particular, by the various language versions of Article 1(4) of Common Position 2001/931.

113. In the present case, the applicant correctly emphasises that the procedures before the Raad van State and the Rechtbank were in no way directed at punishing his possible participation in past acts of terrorism, but were solely concerned with the review of the lawfulness of the decision of the Secretary of State for Justice refusing to grant him refugee status and a residence permit in the Netherlands, principally on the basis of Article 1F of the Geneva Convention or, alternatively, on the basis of the second subparagraph of Article 15 of the Vreemdelingenwet.

114. While it is true that the Raad van State and the Rechtbank, in the course of those procedures, studied the file of the Netherlands internal security service ('the BVD') relating to the applicant's alleged involvement in certain terrorist activities in the Philippines, they did not decide for that reason to open an investigation into those facts, still less to instigate a prosecution against the applicant.

115. It follows that the judgment of the Raad van State of 1995 and the decision of the Rechtbank could not be considered to satisfy the requirements of Article 1(4) of Common Position 2001/931 and could not, accordingly, alone justify the adoption of a decision to freeze the applicant's funds pursuant to Article 2(3) of Regulation No 2580/2001.

116. In any event, it is to be stressed that the Council, when contemplating adopting or maintaining, after review, a fund-freezing measure pursuant to Regulation No 2580/2001, on the basis of a national decision for the 'instigation of investigations or prosecution' for an act of terrorism, may not disregard subsequent developments arising out of those investigations or that prosecution (see, to that effect, PMOI I and PMOI II). It may thus happen that police or security enquiries are closed without giving rise to any judicial consequences, because it proved impossible to gather sufficient evidence, or that measures of investigation ordered by the investigating judge do not lead to proceedings going to judgment for the same reasons. Similarly, a decision to prosecute may end in the abandoning of the prosecution or in acquittal in the criminal proceedings. It would be unacceptable for the Council not to take account of such matters, which form part of the body of information having to be taken into account in order to assess the situation (see paragraph 98 above). To decide otherwise would be tantamount to giving the Council and the Member States the excessive power to freeze a person's funds indefinitely, beyond review by any court and whatever the result of any judicial proceedings taken.

117. In the circumstances of the case, account must also be taken of the Raad van State and the Rechtbank's evaluation of the seriousness and credibility of the evidence or factors gathered by the BVD in the course of its enquiries. It is not obvious that that evaluation supports the approach followed by the Council and the Netherlands. It is true that those judicial bodies regarded as 'plausible enough' or as 'giving a factual basis for ... the Secretary of State's view' certain information in the BVD file, particularly in connection with the allegations that the applicant had 'at least attempted to direct the [terrorist] activities carried out under the control of the NPA in the Philippines' and the allegations relating to the 'personal contacts' that he had supposedly maintained with representatives of terrorist organisations throughout the world. However, those judicial bodies considered, ultimately, that the evidence in question 'd[id] not provide support for the conclusion that the [applicant had] directed the operations in question and [wa]s responsible for them to such an extent that it may be held that there [we]re serious reasons to suppose that the [applicant] ha[d] actually committed ... serious crimes' as referred to in Article 1(F) of the Geneva Convention. Furthermore, although the Rechtbank accepted the Secretary of State's alternative argument that he could refuse to allow the applicant into the Netherlands as a refugee and to issue him with a residence permit for reasons relating to the public interest, on the basis of the second subparagraph of Article 15 of the Vreemdelingenwet, the applicant has rightly noted that the concept of 'public interest' under that provision, especially the integrity and credibility of the Netherlands as a sovereign State, particularly with regard to its responsibilities towards other States, hardly corresponds to the criterion of 'terrorism' used by the Council in Common Position 2001/931 and in Regulation No 2580/2001.

118. But there is still more, for it is clear from the file before the Court that, on the basis of information gathered by the BVD, the Netherlands prosecuting authority considered that there was no evidence justifying the opening in the Netherlands of a criminal investigation relating to the applicant.

119. The latter puts forward, to that effect, an official statement made by the Netherlands Minister for Foreign Affairs at that time, Mr J. de Hoop Scheffer, in reply to a parliamentary question put on 16 August 2002 in the following terms: 'Have the Netherlands conducted an independent investigation into the accusations of terrorism [made against the CPP, the NPA and Mr Sison]? If so, how long ago and in what form?' Answering that question, Mr de Hoop Scheffer informed the Dutch Parliament (Tweede Kamer der Staten-Generaal) on 8 October 2002 that:

'The Netherlands have conducted an investigation into the activities of the CPP [and of the] NPA and of Mr Sison in the Netherlands. That is apparent from the 2001 annual report of the [BVD, which has in the meantime become the Algemene Inlichtingen- en Veiligsheidsdienst or AIVD (General Information and Security Service)] ... On the basis, in particular, of AIVD evidence that the CPP [and the] NPA [are] guided from the Netherlands, enquiries were made, under the supervision of the prosecuting authority, to ascertain whether there was sufficient evidence to warrant opening a criminal investigation. It was clear that such was not the case.'

120. Thus, it has been declared officially that, on 8 October 2002, that is to say, less than three weeks before the applicant was first included in the list at issue on 28 October 2002, the prosecuting authority, stated by the Kingdom of the Netherlands at the hearing to be an independent judicial authority, considered that the BVD and AIVD file did not contain evidence or information sufficiently serious to warrant the opening of criminal investigations into or prosecutions of the applicant in the Netherlands in respect of an act of terrorism relating to his involvement in the activities of the CPP and/or the NPA.

121. In those circumstances, and on any view, the Court considers that neither the judgment of the Raad van State of 1995 nor the decision of the Rechtbank could be considered, at the date on which the contested decisions were adopted, to satisfy the requirements of Article 1(4) of Common Position 2001/931. They could not, therefore, lawfully justify the adoption at that date of the decisions in question, pursuant to Article 2(3) of Regulation No 2580/2001.

122. Having regard to all the foregoing considerations, it is appropriate to reject the applicant's complaints alleging an error, indeed, even a manifest error, in the assessment of the facts, while allowing, so far as it concerns the judgment of the Raad van State of 1995 and the decision of the Rechtbank, his principal complaint that the legal conditions laid down in Article 2(3) of Regulation No 2580/2001 and in Article 1(4) of Common Position 2001/931 have not been satisfied.

123. In the light of what has been set out in paragraphs 100 to 105 above, the acknowledgement that that complaint is well founded cannot but bring about the annulment of Decisions 2007/445 and 2007/868, in so far as they concern the applicant, and there is, therefore, no need to examine the other pleas in law raised by him.

The heads of claim for annulment of Decisions 2008/343, 2008/583 and 2009/62 and of Regulation No 501/2009

Arguments of the parties

124. While relying, mutatis mutandis, on the pleas in law and arguments previously raised in support of his claim for annulment of Decisions 2007/445 and 2007/868, the applicant presents a new line of argument in support of his claim for annulment of Decisions 2008/343, 2008/583 and 2009/62 and of Regulation No 501/2009. This line of argument is directed more particularly against the new factors invoked by the Council in the statement of reasons annexed to its letter of 25 February 2008 (see paragraph 14 above).

125. In this connection, the applicant maintains, in the first place, that the Council plainly misinterpreted and misrepresented the judgment of the Rechtbank of 13 September 2007 and the judgment of the Court of Appeal of the Hague of 3 October 2007, which are linked to a criminal investigation instigated with respect to him in the Netherlands on 28 August 2007 for incitement to commit certain murders in the Philippines.

126. First, in those two decisions, produced as Annexes 4 and 5 to the document lodged at the Court on 8 July 2008, the courts concerned considered that there was no actual evidence of the applicant's direct criminal involvement in the acts at issue that might justify his being kept in detention on remand. Moreover, the Rechtbank's judgment had been set aside and replaced by the judgment of the Court of Appeal and was therefore quite irrelevant.

127. Secondly, as the applicant told the Council even before Decision 2008/343 had been adopted, the charges in question had already been dismissed in the procedure dealing with the substance, as being 'politically motivated', by judgment of the Supreme Court of the Philippines of 2 July 2007 (Annex 9 to the application). It would therefore be improper for the same acts to be the subject of a criminal investigation in the Netherlands.

128. Thirdly, the Council also failed to take into consideration the decision of the rechter-commissaris (the examining judge) of 21 November 2007 closing the preliminary

criminal investigation for want of serious evidence (Annex 6 to the document lodged at the Court Registry on 8 July 2008).

129. The applicant maintains, in the second place, that those decisions of the three Netherlands judicial authorities, in the criminal proceedings relating to him, like the decision of the Supreme Court of the Philippines, disclose no serious and credible evidence or indication of his participation in any terrorist activity whatsoever, but quite the contrary. Moreover, the alleged acts referred to in the context of the criminal proceedings in the Netherlands are not terrorist acts within the meaning of Common Position 2001/931.

130. The Council contends that the Rechtbank found, in its judgment of 13 September 2007, that there were many indications that the applicant had been involved in the Central Committee of the Communist Party of the Philippines and in its armed wing, the NPA. That court also concluded that there were indications that the applicant still played a prominent role in the underground activities of the Central Committee of the Communist Party of the Philippines and of the NPA. On appeal, the Court of Appeal of the Hague concluded, in its judgment of 3 October 2007, that the file contained plentiful material indicating that the applicant had continued to play a prominent role within the Communist Party of the Philippines, throughout his many years of exile.

131. The Council considers that those two decisions provide direct corroboration of its view that the applicant has been involved in acts of terrorism and that decisions in respect of the applicant have been taken by competent authorities within the meaning of Common Position 2001/931.

132. As regards the finding of the Court of Appeal of the Hague that no direct connection has been established between the applicant's role within the Communist Party of the Philippines and the murderous attacks in the Philippines referred to in the charges against him, the Council submits that it is irrelevant since it seeks to rely not on the applicant's guilt in connection with those crimes, but on the leading role he has played in the Communist Party of the Philippines, notwithstanding his exile in the Netherlands. The same applies to the closure of the preliminary criminal investigation.

Findings of the Court

133. It is to be borne in mind that the judgments of the Rechtbank of 13 September 2007 and of the Court of Appeal of the Hague of 3 October 2007 constitute decisions taken in connection with a preliminary criminal investigation instigated with respect to the applicant in the Netherlands on 28 August 2007 for taking part in, or inciting the commission of, certain murders or attempted murders in the Philippines in 2003 and 2004, following internal dissension in the CPP.

134. None the less, it has not been established, or even alleged, that those murders or attempted murders, even if they could be ascribed to the applicant, may be regarded as acts of terrorism, for the purpose of Article 1(3) of Common Position 2001/931.

135. The inevitable conclusion is thus that the judgments of the Rechtbank of 13 September 2007 and of the Court of Appeal of the Hague of 3 October 2007 do not satisfy the requirements of Article 1(4) of Common Position 2001/931 any more than do the judgment of the Raad van State of 1995 and the decision of the Rechtbank.

136. Irrespective of the action taken with regard to the preliminary criminal investigation in question, and in particular of the decision of the rechter-commissaris of 21 November 2007 closing that investigation for want of serious evidence, those two judgments cannot, therefore, on any view constitute legal justification for the adoption of the decisions and the regulation contested pursuant to Article 2(3) of Regulation No 2580/2001.

137. Moreover, as the Council has stated in its written pleadings and as it expressly confirmed at the hearing, the judgments of the Rechtbank of 13 September 2007 and of the Court of Appeal of the Hague of 3 October 2007 were not invoked in the statements of reasons annexed to its letters of 25 February, 29 April and 15 July 2008 and of 27 January 2009 as decisions of competent authorities for the purpose of Article 1(4) of Common Position 2001/931, but as matters of fact intended as corroboration of the findings made by the Raad van State in its judgment of 1995 and by the Rechtbank in its decision, concerning the applicant's continuing involvement in the CPP and the NPA. The same must be found in respect of the statement of reasons annexed to the Council's letter of 16 June 2009.

138. Having regard to what has been set out above, in connection with the examination of the second plea for annulment of Decisions 2007/445 and 2007/868, those considerations cannot but bring about the annulment of Decisions 2008/343, 2008/583 and 2009/62 and also of Regulation No 501/2009, in so far as they concern the applicant, and there is no need to examine the other pleas in law raised by him.

Costs

139. Under Article 87(1) of the Rules of Procedure, a decision as to costs is to be given in the final judgment or in the order closing the proceedings.

140. In the circumstances, this judgment does not close the proceedings, for proceedings in respect of the action for compensation pursuant to Articles 235 EC and 288 EC have been stayed (see paragraph 27 above).

141. That being so, the costs must be reserved.

Operative part

On those grounds,

THE COURT OF FIRST INSTANCE (Seventh Chamber)

hereby:

1. Annuls 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, Council Decision 2007/868/EC of 20 December 2007 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decision 2007/445, Council Decision 2008/343/EC of 29 April 2008 amending Decision 2007/868, Council Decision 2008/583/EC of 15 July 2008 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decision 2007/868, Council Decision 2009/62/EC of 26 January 2009 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decision 2008/583, and Regulation (EC) No 501/2009 of 15 June 2009 implementing Article 2(3) of Regulation No 2580/2001 and repealing Decision 2009/62, in so far as those acts concern Jose Maria Sison;

2. Reserves the costs.

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