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NATIONAL IMPLEMENTATION MEASURES OF UN SANCTIONS AND RESPECT OF HUMAN RIGHTS

EUROPEAN UNION

Document submitted by the European Commission

Tel. 33 (0)388413479 - Fax 33 (0)390215131 - cahdi@coe.int - www.coe.int/cahdi

NATIONAL IMPLEMENTATION MEASURES OF UN SANCTIONS AND RESPECT OF HUMAN RIGHTS

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The CAHDI questionnaire on national implementation measures of UN sanctions, and respect for human rights contains an entry on the European Union from early 2006[1]. In the past two years, a number of important new judgments have been delivered in the area. Let me therefore take the opportunity to update delegations about the main lines of the developing jurisprudence on the implementation of UN sanctions in the European Union and human rights.

With respect to asset freezing and other sanctions against terrorist groups and individuals associated with them, the European Union operates two different lists[2]. First, UN Security Council Resolution 1390 (2002) on the freezing of funds of persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban is implemented by Common Position 2002/402/CFSP and Council Regulation (EC) No. 881/2002 of 27 May 2002 ("the Al-Qaida/Taliban list")[3]. This list includes persons and entities that have been designated by the relevant UN Sanctions Committee as associated with the Al-Qaida network and the Taliban. Second, in accordance with Common Position 2001/931/CFSP of 27 December 2001, Council Regulation (EC) No. 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism freezes the assets of persons, groups or entities involved in terrorist acts. While this "EU terrorist list" implements the abstract criteria laid down in UN Security Council Resolution 1373 (2001), the European Union decides autonomously which specific groups, persons or entities qualify to be listed.

1. The Al-Qaida/Taliban list

The two leading cases on the Al-Qaida/Taliban list are *Kadi* and *Yusuf/al Barakaat International Foundation*. The Court of First Instance[4] rejected the application to annul the decisions that led to the inclusion of the applicants in the list. It considered that the resolutions of the Security Council at issue fell, in principle, outside the ambit of the Court's judicial review and that the Court had no authority to call in question, even indirectly, their lawfulness in the light of Community law. On the contrary, the Court was bound, so far as possible, to interpret and apply Community law in a manner compatible with the obligations of the Member States under the Charter of the United Nations[5]. An exception would only exist with respect to *ius cogens* norms which are also binding on the UN Security Council. In that light the CFI then analysed whether the applicant's rights to property, to a fair hearing and to an effective remedy formed part of *ius cogens* and were reached and concluded that this double condition was not met.

In the *Hassan* and *Ayadi* judgments of 12 July 2006[6] the Court of First Instance confirmed its holdings from *Yusuf* and *Kadi*. Responding to the new allegation that the de-listing procedure at the level of the UN Sanctions Committee is ineffective as it does not allow for direct access of a listed person to the Committee, the Court added that Member States are bound, in accordance with Article 6 EU, to respect the fundamental rights of the persons

[1] CAHDI (2006) 12, pp. 73-76. **N.B.** See also Appendix 1.
[2] Note that the UN and the EU also adopted other targeted sanctions involving the designation of individuals and entities outside the context of combating terrorism.
[3] OJ 2002, L 139. The regulation replaces earlier restrictive measures against the Taliban that had been adopted to implement UN Security Council Resolution 1267 (1999) and UN Security Council Resolution 1333 (2000).
[4] CFI, Judgment of 21 September 2005, T-315/01 (Kadi v Council and Commission); Judgment of 21 September 2005, T-315/01 (Yusuf and Al Barakaat International Foundation v. Council and Commission). All judgments can be downloaded from the website of the European Court of Justice (http://www.curia.europa.eu).
[5] CFI, Kadi judgment, § 225; Yusuf Judgment, § 276.
[6] CFI, Judgment of 12 July 2006, T-49/04 (Faraj Hassan v Council and Commission); CFI Judgment of 12 July 2006, T-253/02 (Chafiqu Ayadi v. Council).

involved. They must thus ensure, so far as is possible, that interested persons are put in a position to assert their point of view before the competent national authorities when they present a request to be removed from the list[7]. Moreover, if the national authorities were infringing the right of the persons involved to request their removal from the list, it would be for the national court to apply, in principle, national law while taking care to ensure the full effectiveness of Community law[8].

The above mentioned four cases are currently pending on appeal before the European Court of Justice[9].

In *Möllendorf*[10], the European Court of Justice addressed the situation where both the contract for the sale of immovable property and the agreement on transfer of ownership have been concluded before the date on which the buyer was included in the Al-Qaida/Taliban list. Upon a preliminary ruling request by a German court, the Court found in its judgment of 11 October 2007 that Article 2(3) of the Regulation must be interpreted as prohibiting the final registration, in performance of that contract, of the transfer of ownership in the Land Register subsequent to that date. With respect to possible interferences of the Regulation with the fundamental right of disposal enjoyed by the owners of the property, the Court pointed out that the requirements flowing from the protection of fundamental rights within the Community legal order are also binding on Member States when they implement Community rules. Accordingly, it is for the referring court to determine whether, in view of the special features of the case before it, repayment of the sums received by the sellers would constitute a disproportionate infringement of their right to property and, if that is the case, to apply the national legislation in question, so far as is possible, in such a way that the requirements flowing from Community law are not infringed[11].

2. The EU terrorist list

With respect to the EU terrorist list, two different types of action must be distinguished.

Where the European Union decides to freeze assets of listed persons, this action is done through the inclusion of the group or person into the scope of application of both Common Position 2001/931/CFSP *and* Council Regulation (EC) 2580/2001. By virtue of Article 249 EC, regulations are directly applicable in the Member States.

Where the European Union obliges Member States to provide mutual assistance with respect to enquiries and proceedings against listed persons, it does so by including the group or persons into the scope of application of Common *Position* 2001/931/CFSP. Member States have to ensure that their national policies conform to Common Positions.

As the former is an instrument of Community law (1st pillar), whereas the latter is adopted in the framework of the Common Foreign and Security Policy and police and judicial cooperation in criminal matters (2nd and 3rd pillar), this has consequences for the judicial review exercised by the European Courts. Let us explain this in further detail.

a) Freezing of assets under Community law

In *PKK/KNK*, the European Court of Justice reviewed in its judgment of 18 January 2007 the conditions under which a group included in the list operated under the Council Regulation can bring an annulment action before the European Courts under Article 230 (4) of the EC

[7] CFI, Hassan judgment, § 117; Ayadi judgment, § 147.
[8] CFI, Hassan judgment, § 122, Ayadi judgment, § 152.
[9] Case C-402/05 P (Kadi); Case C-415/05 P (Al Barakaat); Case C-399/06 P (Hassan); Case C-403/06 P (Ayadi).
[10] ECJ, Judgment of 11 October 2007, C-117/06, Möllendorf.
[11] ECJ, Möllendorf Judgment, §§ 78-79.

Treaty[12]. Setting aside an order of the Court of First Instance, it held that the Kurdistan Workers's Party (PKK) had standing in the European Courts (Luxemburg), whereas the Kurdistan National Congress (KNK) was not entitled to bring an action as it was not included in the EU terrorist list. As the KNK would also lack the status of a victim within the meaning of Article 34 of the European Convention on Human Rights, no conflict between the ECHR and the fourth paragraph of Article 230 EC had been established in the circumstances of that case[13]. The Court of First Instance is now addressing the substance of the application lodged by PKK in 2002.

The compatibility of the procedures according to which a person is included in the list operated under the Council Regulation with fundamental rights is at the heart of the Court of First Instance's judgment of 12 December 2006 in *Organisation des Modjahedines du people d 'Iran* (*OMPI*)[14]. Distinguishing from *Yusuf* and *Kadi* the Court exercised full judicial review because it found that the European Union was not merely implementing specific decisions of the relevant UN Sanctions Committee, but taking a discretionary decision itself[15]. The CFI held that the right to a fair hearing must be observed at national level when a Member State proposes a person or a group for inclusion in the EU list; moreover, at Community level the party concerned need be afforded the opportunity effectively to make known his views on the legal conditions of application of the Community measure in question[16]. At the same time certain restrictions on the right to be heard were considered legitimate. In order to safeguard the "surprise effect" of asset freezing, the party concerned may be heard after the adoption of the measure rather than before. Moreover, there is no duty to disclose evidence to the party concerned if doing so would jeopardise public security[17]. With respect to the obligation to state reasons, the Court demanded to communicate the actual and specific reasons to the party[18]. Finally, the Court held that it must be in position to exercise effective judicial review by receiving itself all relevant evidence and information[19]. In view of the fact that these legal requirements had not been met in the present case, the Court annulled the decision to include OMPI in the EU terrorism list.

As the Council has not appealed the *OMPI* judgment, it has become final. In June 2007, the Council amended the relevant procedures. More details on the EU-listing process can be found in a public EU Factsheet that was updated as recently as 8 February 2008[20].

In the *Al-Aqsa*[21] and *Sison*[22] judgments of July 2007, the Court of Instance applied the standards elaborated in *OMPI* to a foundation and another listed person. As a new element it also reviewed in *Sison* the applicant's claim for damages. In that regard, the Court considered that the breach of the applicant's right of defence is sufficiently serious for the Community to incur liability. Nevertheless, the fundamental principle that the rights of the defence must be observed being essentially a procedural guarantee, it held that annulment

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[12] ECJ, Judgment of 18 January 2007, C-229/05 P (Osman Ocalan, on behalf of the Kurdistan Workers's Party (PKK) and Serif Vanley, on behalf of the Kurdistan Natioanl Congress (KNK) v. Council).
[13] ECJ, PKK judgment, §§ 75-83.
[14] CFI, Judgment of 12 December 2006, T-228/02, Organisation des Modjahedines du peuple d'Iran v. Council.
[15] CFI, OMPI judgment, §§ 99-107.
[16] CFI, OMPI judgment, §§ 119-126.
[17] CFI, OMPI judgment, §§ 127-137.
[18] CFI, OMPI judgment, §§ 138-151.
[19] CFI, OMPI judgment, §§ 152-159.
[20] Factsheet of 8 February 2008 – The EU list of persons, groups and entities subject to specific measures to combat terrorism, available at http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=631&lang=en&mode=g.
[21] CFI, Judgment of 11 July 2007, Case T-323/03, Stichting Al-Aqsa v Council.
[22] CFI, Judgment of 11 July 2007, Case T-47/03, Jose Maria Sison v. Council.

of the contested act constitutes adequate compensation for the damage caused by that breach[23].

b) Mutual assistance of EU Member States under Union law

In the *Segi*[24] and *Gestoras Pro Amnistía*[25] judgments, the European Court of Justice confirmed an order of the Court of First Instance rejecting an application for damages which a listed group claimed to have suffered from its inclusion into the Annex of Common Position 2001/931/CFSP. In its judgment of 27 February 2007, the Court held that Community courts do not have jurisdiction to entertain any action for damages against common positions adopted under Titles V and VI of the EU Treaty[26]. However, where a common position produced legal effects in relation to third parties and erroneously had the format of a common position, the Court could accord to it its correct classification. If such reclassification proved necessary, the Court may give a preliminary ruling on the validity or interpretation of the act under the conditions laid down in Article 35 EU[27]. The Court also reminded that it is for the Member States' courts to interpret and apply national procedural rules governing the exercise of rights of action. National courts should enable natural and legal persons, first, to challenge before the courts the lawfulness of any decision or other national measure relating to the drawing up of an act of the European Union or to its application to them and, second, to seek compensation for any loss suffered[28].

It has taken some time to present recent jurisprudence on EU sanctions, which are common to the 27 Member States of the European Union, and to report on the implementation of UN sanctions in the legal order of the European Union. This documents tries to summarize as succinctly as possible a number of lengthy and very complex judgments of our highest courts. It is intended to provided an overview of the situation as it stands today. Another update may be necessary in the future, given that some 22 sanction cases are currently pending before the Court of First Instance and the Court of Justice together.

[23] CFI, Sison judgment, §§ 240-241.
[24] ECJ, Judgment of 27 February 2007, Case C-355/04 P (Segi v. Council).
[25] ECJ, Judgment of 27 February 2007, Case C-354/04 P (Gestoras Pro Amnistía v. Council).
[26] ECJ, Segi Jugment, §§ 44-48; ECJ, Gestoras Pro Amnistía judgment, §§ 44-48.
[27] ECJ, Segi Judgment, §§ 54-55; ECJ Gestoras Pro Amnistía judgment, §§ 54-55.
[28] ECJ, Segi Judgment, § 56; ECJ Gestoras Pro Amnistía judgment, § 56.

Appendix 1

COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)
UN SANCTIONS AND RESPECT FOR HUMAN RIGHTS

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

March 2006 www.coe.int/cahdi

EUROPEAN UNION

1. Which are the procedures for the incorporation of Security Council resolutions imposing sanctions into the internal legal order of your State? Are they incorporated through legislation, regulations or in any other way? Has the implementation given rise to any constitutional or other legal problems at national level? Is there any relevant case law?

The EU as a rule implements Security Council resolutions imposing sanctions based on Chapter VII of the UN Charter. In June 2004, the Council adopted the Basic Principles on the Use of Restrictive Measures (Sanctions)[1] stating, *inter alia*:

"We will ensure full, effective and timely implementation by the European Union of measures agreed by the UN Security Council."

According to the Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of EU Common Foreign and Security Policy (CFSP) of December 2003 the EU aims to have the necessary implementing legislation in place without delay.

The procedure usually involves two steps. First, under Article 15 EU Treaty, the Council adopts a Common Position. Second, depending on the substance matter, the implementation of this Common Position is either carried out at Community or at national level.

Measures interrupting or reducing, in part or completely, economic relations with one or more third countries are in nearly all cases implemented by means of a Community Regulation based on Articles 60 and 301 of the Treaty establishing the European Community. Such Regulations have general application and precedence over conflicting provisions of the law of the Member States. They are binding in their entirety and directly applicable in all Member States.

Other measures generally included in a Council Common Position falling within Member State competence, such as arms embargos and travel restrictions, are implemented by the Member States. Under Article 15 second sentence EU Treaty, Member States shall ensure that their national measures conform to the common CFSP position, leaving a choice of form to the Member States.

Implementation of UN Security Council resolutions by means of a Community Regulation gave rise to several cases before the European Court of Justice (ECJ) and/or the Court of First Instance (CFI).

As regards the UN embargo on trade with Iraq (SC Resolution 661 of 6 August 1990), the CFI rejected an application under Article 288 (ex 215) paragraph 2 EC by the German company *Dorsch Consult* for compensation for the damage allegedly suffered as a result of the adoption of the implementing Council Regulation (EEC) No. 2340/90 of 8 August 1990. The CFI[2], whose judgment was upheld by the ECJ on appeal[3], elaborated on the conditions of non-contractual liability of the Community. It rejected the application because the applicant had not demonstrated to have suffered actual and certain damage.

[1] Council document 10198/1/04 Rev 1.
[2] CFI, Judgment of 28 April 1998, Case T-182/95 – Dorsch Consult v. Council and Commission, ECR 1998 II-667.
[3] ECJ, Jugdment of 15 June 2000, Case C-237/98 P – Dorsch Consult v. Council and Commission, ECR 2000 I-4941.

Council Regulation No. 1432/1992 of 1 June 1992 implementing the UN trade embargo against Serbia and Montenegro under Security Council Resolution 757 of 30 May 1992 gave rise to two cases. In *Centro Com*, the ECJ held that this Regulation had established a system of mutual confidence between Member States as regards the emission of certificates allowing the transport of goods that had been qualified by the UN Committee on Sanctions as serving humanitarian or medical purposes in Serbia and Montenegro. Accordingly, a Member State was prevented under Community law to give instructions to its banks not to release Yugoslav financial means from its accounts that could be used for paying such imports from another Member State to Serbia and Montenegro[4]. The other case – *Aulinger* - is currently pending before the ECJ. The Court is asked to determine whether Article 1 (d) of the said regulation prohibited the so-called "broken traffic", i.e. the commercial transport of persons from the EU to the border of Serbia and Montenegro by an EU company, while another company located in Serbia and Montenegro would ensure the transport of these persons from the border to a destination inside the latter's territory[5].

UN Security Council Resolution 820 of 17 April 1993, tightening the above mentioned embargo against Serbia and Montenegro, was implemented by Council Regulation No. 990/1993 of 26 April 1993. Upon reference by an Irish Court, the ECJ interpreted in *Bosphorus* Article 8 of this Regulation in the light of the above mentioned UNSC resolution as covering airplanes that are owned by a company located in Serbia and Montenegro, even if they are leased to a non-related third company situated outside Serbia and Montenegro for four years[6]. In *Ebony Maritime*, a tanker flying the Maltese flag who had taken course towards the coastline of Montenegro was stopped from doing so by NATO/WEU forces on the High Sea and handed over to the Italian authorities in Brindisi. The latter ordered the vessel to be impounded and the cargo to be confiscated. Upon reference the ECJ held that under Article 9 of Regulation No. 990/993 the competent authorities of a Member State must detain all vessels suspected of having breached sanctions imposed against the Federal Republic of Yugoslavia, even if they are flying the flag of a non-member country, belong to non-Community nationals or companies, or if the alleged breach of sanctions occurred outside Community. Likewise, national authorities may, under the second paragraph of Article 10 of the Regulation, confiscate those vessels and their cargoes once the infringement has been established. Articles 9 and 10 of the Regulation were found to be applicable once a vessel is within the territory of the Member Staten and thus under the territorial jurisdiction of that State, even if the alleged infringement occurred outside its territory[7].

Finally, some cases concerning Regulation (EC) No 881/2002 on financial sanctions imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, Regulation (EC) n° 2580/2001 on specific measures directed against certain persons and entities with a view to combating terrorism, and Regulation (EC) No 872/2004 on financial sanctions targeting former President Taylor of Liberia and associated persons that implement relevant UN Security Council resolutions are pending before the Court of First Instance of the European Communities (CFI) (see also answer to question 7).

2. Does the choice depend on the content and the legal nature of the Security Council resolution?

Legally binding Security Council decisions, adopted under Chapter VII of the UN Charter, are implemented in the European Union due to their obligatory legal nature. The choice of procedure and form depends on the nature of the measure that must be taken (cf also answer to question 1).

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[4] ECJ, Judgment of 14 January 1997, Case C-124/95 – Centro Com, ECR 1997 I-114.
[5] Preliminary Reference by the Oberlandesgericht Köln of 21 August 2003, Case C-371/03, Aulinger ./. Federal Republic of Germany, pending.
[6] ECJ, Judgment of 30 July 1996, Case C-84/95 – Bosphorus v. Minister for Transport, Energy and Communications, ECR 1996, I-3953.
[7] ECJ, Jugment of 27 February 1997, Case C-177/95 – Ebony Maritime SA and Loten Navigation Co. Ltd v Prefetto della Provincia di Brindisi and others, ECR 1997 I-1111.

3. When sanctions are imposed for a fixed period of time which is not renewed, are they tacitly repealed within your domestic legal order or is any normative action required?

As a rule, EU Council Common Positions and Regulations cease to apply either on the date of expiration provided therein, without needing any further decision, or, in the absence of an expiry date, when they are repealed. The 2003 Guidelines state in this regard:

"A specific situation exists, when the Security Council decides on measures which expire by a particular date. In such a situation, correct implementation of the UN measures requires immediate legislative action, if the measures are renewed just before the expiration date. In order to prevent expiration of the restrictive measures in cases where renewal is called for, the Council should not copy the expiration date in the implementing Regulation."

Accordingly, the Regulations will normally remain in force and require normative action to be repealed, if the Security Council fails to renew them.

4. When a Security Council resolution imposing an export embargo provides for exceptions while not establishing a committee to authorise such exceptions, does the incorporating act appoint a national authority which is competent to authorise export?

The Regulations imposing sanctions include lists of competent authorities which are empowered to grant exemptions. Whereas certain implementing powers are granted to the Commission, it is common practice that the Regulations provide that authorities of the Member States are competent to take decisions on requests for exemptions.

5. Are Sanctions Committee decisions specifying Security Council sanctions or setting conditions for their activation incorporated into domestic law?

Where the UN Security Council resolution provides that certain decisions can only be taken by a UN Sanctions Committee, the Regulations are drafted accordingly. For example, the Commission is empowered to adopt the measures necessary to implement designations of persons, groups and entities made by the Al Qaeda and Taliban Sanctions Committee, in order to have funds and assets frozen in accordance with Regulation (EC) No 881/2002.

If exemptions must be granted by a UN Sanctions Committee, the Regulations stipulate that requests must be sent to the competent authorities, which will then take the matter to the Sanctions Committee and inform the applicant of the decision. In order to provide the clarity that is needed, any conditions for granting exemptions laid down in the UN Security Council resolution are included in the Regulation.

6. Have there been cases where the act incorporating sanctions in the domestic legal order was challenged in court for being in violation of human rights? For example, have national courts assumed jurisdiction in cases where sanctions are challenged by individuals affected by sanctions:
a. if implemented through EU-regulations;
b. if implemented directly at national level?

In the *Bosphorus* case (see note 1), a company challenged the prohibition contained in Article 8 of Council Regulation No. 990/1993 to use an aircraft leased from a Yugoslav enterprise as violating his right to property and the freedom to pursue a business. The ECJ found[8]:

"22 Any measure imposing sanctions has, by definition, consequences which affect the right to

[8] ECJ (note 6), paras. 22-26.

property and the freedom to pursue a trade or business, thereby causing harm to persons who are in no way responsible for the situation which led to the adoption of the sanctions.

23 Moreover, the importance of the aims pursued by the regulation at issue is such as to justify negative consequences, even of a substantial nature, for some operators.

24 The provisions of Regulation No 990/93 contribute in particular to the implementation at Community level of the sanctions against the Federal Republic of Yugoslavia adopted, and later strengthened, by several resolutions of the Security Council of the United Nations. The third recital in the preamble to Regulation No 990/93 states that "the prolonged direct and indirect activities of the Federal Republic of Yugoslavia (Serbia and Montenegro) in, and with regard to, the Republic of Bosnia-Herzegovina are the main cause for the dramatic developments in the Republic of Bosnia-Herzegovina"; the fourth recital states that "a continuation of these activities will lead to further unacceptable loss of human life and material damage and to a further breach of international peace and security in the region"; and the seventh recital states that "the Bosnian Serb party has hitherto not accepted, in full, the peace plan of the International Conference on the Former Yugoslavia in spite of appeals thereto by the Security Council".

25 It is in the light of those circumstances that the aim pursued by the sanctions assumes especial importance, which is, in particular, in terms of Regulation No 990/93 and more especially the eighth recital in the preamble thereto, to dissuade the Federal Republic of Yugoslavia from "further violating the integrity and security of the Republic of Bosnia-Herzegovina and to induce the Bosnian Serb party to cooperate in the restoration of peace in this Republic".

26 As compared with an objective of general interest so fundamental for the international community, which consists in putting an end to the state of war in the region and to the massive violations of human rights and humanitarian international law in the Republic of Bosnia-Herzegovina, the impounding of the aircraft in question, which is owned by an undertaking based in or operating from the Federal Republic of Yugoslavia, cannot be regarded as inappropriate or disproportionate".

The President of the Court of Justice[9] followed a similar line of reasoning in its order rejecting an appeal of the "Invest Import GmbH" against an order a Chamber President of the CFI[10] in the context of the Yugoslav financial embargo (Regulations No. 1294/99 and No. 723/2000).

For cases on UN sanctions directed against individuals which are implemented on the European level see answer to question No. 7.

7. Are there decisions of national courts or state practice concerning the relationship between sanctions towards individuals and the human rights of these individuals?

A number of applications against Regulation (EC) No 881/2002 2002 on financial sanctions imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and Regulation (EC) n° 2580/2001 on specific measures directed against certain persons and entities with a view to combating terrorism are pending before the Court of First Instance of the European Communities (CFI). Very recently an application has been lodged before the CFI against Regulation (EC) No 872/2004 on financial sanctions targeting former President Taylor of Liberia and associated persons. These applications were lodged by persons and entities designated by a UN Sanctions Committee in accordance with a UN Security Council resolution. The CFI has up to now decided on requests for interim measures[11], but has not rendered judgement in any of these cases.

[9] Order of the President of the Court of 13 November 2000, Case C-317/00 P – Invest Import and Export GmbH and Invest Commerce v. Commission of the European Communities, ECR 2000 I-9541.

[10] Order of the President of the Second Chamber of the Court of First Instance of 2 August 2000, Case T-189/00 R – Invest Import and Export GmbH and Invest Commerce v. Commission of the European Communities, ECR 2000 II-2993.

[11] See, in particular, Order of 7 May 2002 in Case T-306/01, Aden et al. v. Council and Commission.