

**Action brought on 15 July 2008 — Al-Aqsa v Council****(Case T-276/08)**

(2008/C 236/25)

*Language of the case: Dutch***Parties**

*Applicant:* Al-Aqsa (Heerlen, Netherlands) (represented by: J. Pauw and M. Uiterwaal, lawyers)

*Defendant:* Council of the European Union

**Form of order sought**

- declare that the Council is under an obligation to compensate the applicant for the damage which it has suffered, in the amount of EUR 10 600 000, plus interest to be calculated up to the date of judgment in the present case, or at least such compensation as the Court may determine;
- order the Council to pay the costs of these proceedings.

**Pleas in law and main arguments**

The applicant is seeking compensation in respect of the damage which it claims to have suffered by reason of the fact that Council Decision 2003/480/EC of 27 June 2003 <sup>(1)</sup> placed it on the list of persons to whom Regulation (EC) No 2580/2001 <sup>(2)</sup> is to apply. The applicant's inclusion on the list has subsequently been confirmed on the occasion of each update.

The applicant contends that these decisions are unlawful for a variety of reasons. The applicant first points out that Decision 2006/379/EC of 29 May 2006 <sup>(3)</sup> was annulled by the Court on the ground that it failed to meet the requirement of an adequate statement of reasons <sup>(4)</sup>. The applicant contends further that the decisions are vitiated by a number of substantive defects, and refers in this connection to its pleas in law in Cases T-327/03 and T-348/07 *Al-Aqsa v Council* <sup>(5)</sup>.

In issue here, according to the applicant, are sufficiently serious breaches of rights conferred on individuals as accordingly to justify the award of compensation. The damage suffered by the applicant involves both damage to its reputation and

non-material damage, in respect of which the Council has been liable since 28 June 2003, that being the date on which the European measures entered into force.

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- <sup>(1)</sup> Council Decision 2003/480/EC of 27 June 2003 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 2002/974/EC (OJ 2003 L 160, p. 81).
- <sup>(2)</sup> 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).
- <sup>(3)</sup> 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).
- <sup>(4)</sup> Judgment of the Court of First Instance of 11 July 2007 in Case T-327/03 *Al-Aqsa v Council*.
- <sup>(5)</sup> OJ 2003 C 289, p. 30, and OJ 2007 C 269, p. 61, respectively.

**Action brought on 15 July 2008 — Bayer Healthcare v OHIM — Laboratorios ERN (CITRACAL)****(Case T-277/08)**

(2008/C 236/26)

*Language in which the application was lodged: English***Parties**

*Applicant:* Bayer Healthcare LLC (Morristown, United States) (represented by: M. Edenborough, barrister)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Laboratorios ERN, SA (Sant Just Desvern, Spain)

**Form of order sought**

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 May 2008 in case R 459/2007-4; and
- Order the defendant or alternatively the other party to the proceedings before the Board of Appeal to pay the costs. As a further alternative, to order the defendant and the other party to the proceedings before the Board of Appeal to be liable jointly and severally for the costs.