



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 June 2011

11685/11

JUR 306
RELEX 664
PESC 790
COTER 56

"I" ITEM NOTE

from : Council Legal Service
to : COREPER (2nd part)

Subject : Case T-134/11 before the General Court
- Al-Bashir Mohammed Al-Faqih, Ghunia Abdrabbah, Taher Nasuf, Sanabel Relief Agency Ltd v. European Commission
- Intervention by the Council

1. By an application notified to the Council on 6 April 2011, Messrs. Al-Bashir Mohammed Al-Faqih, Ghunia Abd'rabbah and Taher Nasuf, and the Sanabel Relief Agency Ltd have brought, in accordance with Article 263 TFUE, an action before the General Court in the above-mentioned case for annulment of Commission Regulation (EC) No 1139/2010 adopted on 7 December 2010, amending Council Regulation (EC) No 881/2002 imposing certain specific measures directed against certain persons and entities associated with Usama Bin Laden, the Al-Qaida network and the Taliban¹ which confirmed Mr. Al-Faqih, Mr Abd'rabbah and Mr Nassuf's inclusion in Annex 1 of that Regulation; as well as for annulment of Commission Regulation No 1138/2010, adopted on 7 December 2010 amending Council Regulation (EC) No 881/2002, which confirmed the Sanabel Relief Agency's inclusion in Annex 1 of that Regulation, in so far as the respective Regulations relate to them.

¹ OJ L 260 of 6.10.2005, p. 9, and OJ L 139 of 29.05.2002, p. 9, respectively.

2. The applicants invoke the following grounds in support of their claims:
 - a) failure by the Commission to independently review the basis of the Applicants' designation and failure to provide reasons for the Applicants' designation;
 - b) failure to respect the right to judicial review and infringement of rights of the Defence (Article 6 ECHR);
 - c) The completed review concerning the Sanabel Relief Agency is unsustainable;
 - d) Disproportionate interference by the contested regulations with the applicant's right to property and right to private life.

3. Although the above action is directed against Commission Regulations (EC) No 1139/2010 and No 1138/2010, these Regulations directly implement Article 7(1)(a) of Council Regulation (EC) No 881/2002.

4. Therefore, it is necessary that the Council intervenes in this case in support of the Commission, in order to defend the legality of the contested acts. Member States are also entitled to intervene, according to Article 40 of the Statute of the Court of Justice.

5. The Director-General of the Council Legal Service has appointed Ms Emer FINNEGAN, Mr Richard SZOSTAK and Mr Guillaume ETIENNE, legal advisors in the Council Legal Service, as the Council's agents in this case.
