

Status of the People's Mojahedin Organisation of Iran as a resistance movement

Summary of Legal Opinion by
The Rt Hon. The Lord Slynn of Hadley
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The Rt. Hon. Lord Slynn of Hadley and Professor Jean-Yves de Cara have visited Iraq twice in the past year to study in situ the plethora of documents and evidence concerning the legal status of the People's Mojahedin Organisation of Iran (PMOI). Thousands of members of the PMOI reside at Camp Ashraf, located about 100 km north-east of Baghdad. The following excerpts from the legal opinion by Lord Slynn and Professor de Cara show their view on the subject:

Because of some of the past military operations of the Mojahedin, it may be considered that they enjoyed recognition as insurgents. Such recognition is a unilateral act by which a State acknowledged a factual situation and relationship between the State and insurgents fighting against the incumbent government of another State.

The People's Mojahedin Organisation of Iran took several limited military actions against military installations in Iran from the Iraqi territory prior to the 1988 cease-fire between the two countries, then they later restricted their activities a) to self-defence of their camps and people in Iraq that have been targets of military actions by the Iranian government and b) to political propaganda to Iran calling for a democratic regime in that country. For that reason and to that purpose the Iraqi government recognised the PMOI as a resistance movement.

It seems that this status was based on a verbal agreement between the Iraqi government and the PMOI who are entitled to enter and reside in Iraq and enjoy their freedom of action and independence. This is supported by a general practice of the Iraqi authorities and by some documents: a statement by the President of Iraq on June 15, 1986: "the Iraqi leadership respects the Iranian Resistance and its political and ideological independence and freedom of action of this resistance in its actions and movements to achieve its objectives ... The relations between Iraq and the Iranian Resistance are based on peace, mutual respect to national sovereignty and respect for each nation's ideological and political choice".¹

PMOI were allocated by the Iraqi government various places to set up their camps and offices; the Iraqi authorities consider that "sites **belonging to the PMOI** are sites that the government of Iraq has allowed this organisation to use without any interference".²

¹ Baghdad Observer 15-16 June 1986.

² Office of the President, National Monitoring Directorate December 9, 2002; even for the investigation of weapons of mass destruction an agreement with the foreign organisation was needed Ath Thawra Daily December 6, 1998.

PMOI were allowed initially to keep their weapons and to take actions against the Iranian territory from Iraq.

PMOI were allowed to broadcast in Iraq and outside Iraq

PMOI were allowed to carry out military and political training in their camps.

Those elements make clear that the Mojahedins were regarded as a resistance movement.

Several precedents of such recognition may be found in the past. The French resistance movement had also been recognised as such before it was regarded as a government. In a more recent past, other movements of resistance have been recognised as such: FLN of Algeria during the rebellion against France, SWAPO in Namibia and others which might have fled out the territory of the State against which they have been fighting by force or politically.

Lord Slynn of Hadley

The Right Honourable the Lord Slynn of Hadley
Honorary Doctors of Laws, Kingston University

Lord Slynn of Hadley was a Lord of Appeal in Ordinary from 1992 to 2002 and is a European jurist of great distinction.

His career at the Bar was largely spent in the area of Administrative Law. He was Junior Counsel to the Treasury from 1968-1974 and, upon his appointment as a Queen's Counsel in 1974, was Leading Counsel to the Treasury. He became Recorder of Hereford in 1971. In 1976 he was appointed a High Court judge in the Queen's Bench Division and received a knighthood. From 1978-81 he was president of the Employment Appeal Tribunal.

He was appointed an Advocate General of the European Court of Justice in Luxembourg in 1981 and became a Judge of that Court in 1988. Upon his appointment as a Lord of Appeal in 1992 he was created a life peer and a Privy Councillor.

Jean-Yves de Cara

Appointments

Professor agrégé des Facultés de Droit since 1994, University of Lyon and at the Institut d'études Politiques d'Aix-en-Provence (Institute of Political Science) since 1994
Fellow of the University of Cambridge (Centre of European Law Studies) (1996-1997)
Visiting professor University of Durham (UK) (1993-1998)
Visiting professor University of Georgia (USA) 1996, 1997
Guest professor at the University of Konstanz (Germany) 1997, 1998
Supervisor and professor of the Pallas consortium, University of Nijmegen (The Netherlands) since 1997
Référéndaire (legal secretary or law clerk) to Sir Gordon Slynn at the ECJ (1989-1992)
Avocat au barreau de Lyon (attorney at the bar of Lyon) since 1988
Conseiller du commerce extérieur de la France since 1996
Director of the Institut Jean Monnet since 1996
Director of the Centre for International Law Studies, University of Lyon since 1995
Board member, Durham European Law Institute since 1993
Board member, European Maritime Law Organisation, London (1991-97)
Board member of the European business law review
Member of the editors committee of Les Cahiers lyonnais du droit international
Member of the council of the Pallas Consortium, Nijmegen
Conseiller du Commerce extérieur de la France, appointed in January 1997

Education

Licence en droit (degree in law) Faculty of Law, Lyon (1973)
Diplôme d'études supérieures (DES) (postgraduate degree) in public law (1974)
DES (postgraduate degree) in History of Law and Roman Law (1975)

Diploma in English legal terminology
Doctorat d'Etat in public law (PhD in Public International Law); thesis supervised
by Professor Bourdoncle in Lyon and Professor Dietrich Schindler in Zurich and successfully
submitted in December 1981
Academy of International Law, The Hague 1985
Agrégation de Droit public 1994

Professional Associations

International Law Association (British branch)
Société française pour le droit international
Société Chateaubriand
Club des conseillers du commerce extérieurs, Paris
Club: The Athenaeum, London

Languages

English and French

Practice Profile

EC competition law (French monopoly; merger in pharmaceuticals; agreements in shipping)
Intellectual property rights (computer law)
Banking (duty of advice in French law)
Designation of origin and trade mark (wine)
International investments and subsidies in The Middle East
Unfair competition (medical profession)