

Supreme Court quashes terror rule

By Dominic Casciani
BBC News

The UK Supreme Court has ruled that special Treasury orders that freeze the assets of terror suspects are unlawful.

The judges at the UK's highest court said the government had exceeded its powers by controlling the finances of five suspects.

They also lifted a ban on identifying the men who brought the challenge.

The court said the government should have sought Parliament's approval for the asset freezing regime, rather than creating it automatically.

The five men at the centre of the case have only been usually allowed £10 a week in cash and need special permission for other expenses.

THE FIVE SUSPECTS

- Mohammed al-Ghabra
- Hani el Sayed Sabaei Youssef
- Michael Marteen, formerly Mohammed Tunveer Ahmed
- Mohammed Jabar Ahmed
- Mohammed Azmir Khan

The court has suspended its judgement for a month, which will give the government time to change the law so it can go ahead and lawfully freeze alleged terrorist assets. In the meantime, suspects will continue to have their assets frozen.

UN orders

In the ruling, the Supreme Court justices said that if the government wanted to take "far-reaching measures" to combat terrorism then it needed the approval of Parliament.

Lord Hope said: "Even in the face of the threat of international terrorism, the safety of the people is not the supreme law.

" This is a clear example of an attempt to adversely affect the basic rights of the citizen without the clear authority of Parliament "

Lord Hope

"We must be just as careful to guard against unrestrained encroachments on personal liberty."

The two orders to freeze assets were brought in by Gordon Brown when he was Chancellor of the Exchequer.

The original Terrorism (UN Measures) Order 2006 and the 2006 al-Qaeda and Taliban (UN Measures) Order were made under section 1 of the 1946 UN Act in order to implement resolutions of the UN Security Council.

Both orders became part of British law without a Parliamentary debate, which the men said was unfair because the government had created offences without putting it to a vote.

The Treasury issued the men with licences for specific purposes, such as claiming benefits. The men were allowed about £10 a week in cash and had to provide officials with receipts for everything they spent.

The men had argued that the asset-freezing regime severely affected their ability to use property and cash from any source and, in turn, left their families open to criminal prosecution if they offered help.

In one situation, a minister had to be consulted on whether a suspect could use a car to get the family groceries from a supermarket because the vehicle was classed as a financial resource.

The men also argued that the British system went beyond what the UN had set out to do by targeting those accused of links to terrorism, rather than just those convicted at trial.

Supremacy of Parliament

Lord Hope said the Treasury had exceeded its powers in how it had devised and implemented the Terrorism Order.

"This is a clear example of an attempt to adversely affect the basic rights of the citizen without the clear authority of Parliament," he said.

Turning to the second type of restriction, the al-Qaeda Order, Lord Hope said that one of the five men, Mohammed al-Ghabra, had been denied a basic right to challenge his restrictions.

Explaining the judgement, Lord Phillips, president of the Supreme Court, said: "Nobody should conclude that the result of these appeals constitutes judicial interference with the will of Parliament.

"On the contrary, it upholds the supremacy of Parliament in deciding whether or not measures should be imposed that affect the fundamental rights of those in this country."

A spokesman for the Treasury said it would abide by the ruling and legislate as quickly as possible.

"It's important to be clear that this ruling does not challenge the UK's obligations under the UN Charter to freeze the assets of suspected terrorists, which we will continue to meet.

"We will introduce fast-track legislation to ensure there is no disruption to our terrorist asset-freezing powers."

Story from BBC NEWS:

http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/8482630.stm

Published: 2010/01/27 11:03:10 GMT

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