

No. 12-1118

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN RE PEOPLE'S MOJAHEDIN ORGANIZATION
OF IRAN, *Petitioner.*

**PETITIONER'S EMERGENCY MOTION
FOR EXPEDITED CONSIDERATION**

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February 29, 2012

**CERTIFICATE AS TO PARTIES, RULINGS,
AND RELATED CASES**

Pursuant to D.C. Circuit Rule 28(a)(1), counsel for Petitioner certifies as follows:

A. Parties and Amici

The People's Mojahedin Organization of Iran ("PMOI") is the only party before the Department of State in the administrative proceeding at issue; it is the Petitioner in this Court. The Secretary of State is the Respondent. Several former senior government officials and military officers have filed a brief *amicus curiae* urging the Court to grant PMOI's petition.

B. Rulings Under Review

Petitioner seeks a writ of mandamus, in the face of unwarranted and unreasonable agency delay, to order the Secretary of State to delist PMOI as a designated "Foreign Terrorist Organization," or, alternatively, to act on PMOI's request for delisting within 30 days (and specifying that, if she does not, the designation shall be revoked). Before the Department of State, the proceeding is styled as "Petition of the People's Mojahedin Organization of Iran for the Revocation of Its Designation as a 'Foreign Terrorist Organization' Pursuant to 8 U.S.C. § 1189(a)(4)(B)."

C. Related Cases

This petition for a writ of mandamus follows from PMOI's previous action

in this Court, in which the Court invalidated the Secretary's denial of PMOI's delisting petition and remanded for further proceedings. *See People's Mojahedin Org. of Iran v. U.S. Dep't of State*, 613 F.3d 220 (D.C. Cir. 2010).

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CORPORATE DISCLOSURE STATEMENT

In accordance with Rule 26.1 of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 26.1, Petitioner People's Mojahedin Organization of Iran makes the following disclosure:

People's Mojahedin Organization of Iran has no parent corporation, nor is there any publicly held corporation with a 10 percent or greater ownership interest in People's Mojahedin Organization of Iran.

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INTRODUCTION

This Court previously held that the Secretary of State violated the Constitution's due process clause when she denied a 2008 request by the People's Mojahedin Organization of Iran ("PMOI") to revoke its status as a designated Foreign Terrorist Organization ("FTO"). *People's Mojahedin Org. of Iran v. U.S. Dep't of State*, 613 F.3d 220 (D.C. Cir. 2010). Two and a half years later, the Secretary has not acted and PMOI's designation remains in place—despite the fact that Congress has expressly required all revocation petitions to be decided within 180 days, 8 U.S.C. § 1189(a)(4)(B)(iv)(I), and despite the fact that this Court ordered her to afford the group constitutionally adequate process, *PMOI*, 613 F.3d at 230–31.

On February 27, 2012, PMOI petitioned this Court to issue a writ of mandamus directing the Secretary to revoke the group's FTO designation (or, alternatively, directing her to decide the revocation petition within 30 days and specifying that, if she does not, the designation shall be revoked). PMOI now respectfully requests expedited review of its petition. Expedited consideration by this Court is necessary to prevent the Iraqi government from continuing to endanger the lives of PMOI members at Camp Ashraf, Iraq, and to forestall the humanitarian crisis that threatens to unfold as third countries are reluctant to accept Ashraf residents for resettlement as long as PMOI remains on the FTO list.

ARGUMENT

I. EXPEDITED CONSIDERATION IS NECESSARY TO PROTECT THE LIVES OF PMOI MEMBERS AT CAMP ASHRAF AND TO PREVENT A REFUGEE CRISIS.

Under 28 U.S.C. § 1657(a), “each court of the United States . . . shall expedite the consideration” of any action “if good cause therefor is shown.” PMOI’s petition for a writ of mandamus should be considered on an expedited basis because the Iraqi government has set an end-of-April deadline for PMOI members at Camp Ashraf to be expelled from the country—just than two months from now. While the Secretary of State dithers on PMOI’s request to revoke its FTO designation, Ashraf residents face a continuing threat of deadly violence from Iraqi forces, and other countries are reluctant to accept them for resettlement as long as PMOI remains on the FTO list. Expedited review is PMOI’s only hope for avoiding these irreparable harms, as the U.S. government has publicly confirmed that the Secretary is unlikely to decide PMOI’s petition in the foreseeable future. For the residents of Ashraf, expedited consideration by this Court is literally a matter of life and death.

The Iraqi government repeatedly has said that Camp Ashraf must be evacuated and closed—and the 3,300 PMOI members and supporters who live there must be expelled from Iraq. In December 2011, Prime Minister Nouri al-Maliki ordered the camp to be shut down and its residents to be removed from the

country by April 2012.¹ That deadline is only two months away. Yet the Secretary of State shows no apparent sense of urgency to resolve PMOI's petition for revocation by then.

The Secretary's indecision imperils the lives and safety of PMOI's members and supporters. Iraqi forces have attacked Camp Ashraf twice since Iraq took over responsibility for the camp in 2009. The first raid, in July 2009, killed 11 unarmed and defenseless residents and wounded hundreds of others.² The second, in April 2011, killed 34 and wounded dozens more.³ Iraqi forces also have repeatedly interfered with the delivery of supplies to the residents of Camp Ashraf—including such essentials as food and medicine.⁴

Iraq has attempted to justify these atrocities by pointing to PMOI's status as a designated FTO. Congressman Brad Sherman has indicated that, “[i]n private discussions, the Iraqi Ambassador's office has said the blood is not on the hands of

¹ Associated Press, *Iraq Sets Deadline for Iranian Exiles to Leave*, Yahoo!News (Dec. 21, 2011), <http://news.yahoo.com/iraq-sets-deadline-iranian-exiles-leave-184714849.html>.

² *Iraq Mounts Attack on Iranian Dissidents*, CBSNews (July 29, 2009), <http://www.cbsnews.com/stories/2009/07/29/eveningnews/main5196623.shtml>.

³ U.N. Office High Comm'r for Human Rights, *Pillay Condemns Iraqi Operation that Led to 34 Deaths, Calls for Inquiry* (Apr. 15, 2011), <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10943&LangID=E>.

⁴ Brian Murphy, *Iranian Group: Health Care Blocked at Iraq Camp*, Seattle Times (Dec. 4, 2009), http://seattletimes.nwsouce.com/html/nationworld/2010423983_apmliraq.html.

the Iraqi government but is at least partially on the hands of the State Department because [PMOI] is listed as a terrorist group and accordingly Iraq does not feel that it has to respect the human rights of those in the camp.”⁵ Congressman Ted Poe likewise has emphasized that “one reason that the people in Camp Ashraf are treated the way they are treated by Iraq is because the State Department continues to designate them as a Foreign Terrorist Organization.”⁶

The Secretary’s refusal to decide PMOI’s revocation petition also is complicating international efforts to remove Ashraf residents from the dangers they face in Iraq and resettle them elsewhere. Several countries have expressed reservations about accepting Ashraf residents as long as PMOI remains a designated FTO. Congressman Dana Rohrabacher was “specifically told” by the U.N. High Commissioner for Refugees “that the terrorist designation by the United States of the people of Camp Ashraf was the major stumbling block in getting these people relocated.”⁷ Another U.N. official reports being “advised that due to the inclusion of [PMOI] on the [FTO list], none of the Iranians from Ashraf who

⁵ *Hearing Before the Subcomm. on Terrorism, Nonproliferation, and Trade of the Comm. on Foreign Affairs*, 112 Cong. 5 (2011) (statement of Rep. Sherman).

⁶ *Axis of Abuse: U.S. Human Rights Policy Toward Iran and Syria, Part 1: Hearing Before the Subcomm. on Middle East & S. Asia, Comm. on Foreign Affairs*, 112 Cong. 23 (2011) (statement of Rep. Poe)

⁷ *Axis of Abuse, supra* at 35 (statement of Rep. Rohrabacher)

may be recognized would be admissible to the US”⁸ Denmark even has refused to allow Ashraf residents who are ill to enter the country for medical treatment because PMOI “is known to be on the U.S. terrorist list.”⁹

As long as the Secretary refuses to decide PMOI’s revocation petition, the group’s members at Camp Ashraf will continue to face the specter of death and serious injuries at the hands of the Iraqi government, with diminished prospects of resettlement in third countries as refugees.

Expedited consideration by this Court is especially appropriate in this case because the government has all but conceded that it has no intention of resolving PMOI’s revocation petition expeditiously. On the day PMOI filed its petition for a writ of mandamus, the Associated Press reported that:

State Department spokeswoman Rhonda Shore said the department is reviewing the group’s designation in accordance with the appeals court order and the law. She gave no indication of how long that could take. But *the department is not expected to make a decision on the group anytime soon*, according to a U.S. official speaking on a condition of anonymity because the examination is ongoing.

Nedra Pickler, *Iranian Opposition Asks for Appeals Court Action*, ABC News

⁸ Appendix to the Petition (“App.”) 36 (Letter from Vincent Cochetel, Reg’l Representative, UNHCR to Samantha Power, Senior Dir. for Multilateral Affairs, NSC (Nov. 21, 2011)).

⁹ App. 35 (E-mail from Villy Sovndal, Minister of Foreign Affairs to Jens Christian Lund, Member of Parliament (Nov. 18, 2011, 12:35 CET)).

(Feb. 27, 2012)¹⁰ (emphasis added). Despite the humanitarian catastrophe that looms at Ashraf—to say nothing of Congress’s 180 day deadline for deciding revocation petitions and this Court’s previous order remanding with instructions that the Secretary cure her due process violation—the Department seems determined to defer a decision into the distant future. Absent expedited review by this Court, there is no realistic prospect that PMOI’s FTO status will be conclusively resolved before the Iraqi government’s April deadline for the expulsion of PMOI members from that country.

II. PROPOSED BRIEFING SCHEDULE.

If the Court agrees that expedited consideration is warranted, PMOI proposes the following briefing schedule:

Petition:	filed on February 27, 2012
Respondent’s Brief:	March 19, 2012
Petitioner’s Reply:	March 26, 2012
Oral Argument:	As soon after April 16, 2012 as is consistent with the Court’s docket

Given that both parties have extensively addressed the relevant factual and legal issues in administrative proceedings before the Department of State, PMOI submits that this proposed schedule would give the parties ample time to complete

¹⁰ Available at <http://abcnews.go.com/US/wireStory/iranian-opposition-asks-appeals-court-action-15802449>.

their filings. It would also ensure that the case is fully briefed in time for this Court to render a decision before the end of April, the Iraqi government's deadline for the expulsion of PMOI members from Iraq.

CONCLUSION

For the foregoing reasons, PMOI respectfully submits that there is good cause for expedited treatment of this petition for a writ of mandamus, and that the Court should adopt the proposed briefing schedule set forth herein.

Respectfully submitted,

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Dated: February 29, 2012

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 27(d)(1)(E), undersigned counsel hereby certifies that this motion complies with the type-face limitations set forth in Fed. R. App. P. 27(d)(1)(E).

Dated: February 29, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of February, 2012, I have caused the foregoing motion to be served electronically via the Court's electronic filing system on the following party who is registered in the Court's CM/ECF system:

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