

Defendant: European Commission (represented by: S. Delaude and N. Bambara, acting as Agents, and R. Van der Hout, lawyer)

No 14/2005, No 492/2007, and No 1190/2005 insofar as they are of direct and individual concern to the applicants; and

Re:

Application for suspension of the operation of the decision contained in the Commission's letter of 10 July 2009 terminating the applicant's participation in two Community projects and the debit notes issued on 7 August 2009 by which the Commission claimed repayment of sums paid pursuant to Community projects in which the applicant participated

— order the Council and/or the Commission to pay the applicants' costs.

Operative part of the order

1. *The European Commission shall be regarded as the sole defendant.*
2. *The application for interim measures is dismissed.*
3. *The costs are reserved.*

Pleas in law and main arguments

By means of its application, the applicants seek, pursuant to Article 230 EC, the annulment of Council Regulation No 881/2002 imposing certain specific restrictive certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and Taliban, as amended by the Commission Regulations (EC) No 14/2005 of 5 January 2005, No 492/2007 of 3 May 2007, and 1190/2005 of 20 July 2005 and/or the annulment of Commission Regulations (BC) No 14/2005, No 492/2007, and 1190/2005, insofar as they relate to the applicants.

Action brought on 14 August 2009 — Al-Faqih and MIRA v Council and Commission

(Case T-322/09)

(2010/C 113/77)

Language of the case: English

Parties

Applicants: Saad Al-Faqih and Movement for Islamic Reform in Arabia (London, United Kingdom), (represented by: J. Jones, Barrister and A. Raja, Solicitor)

In support of their action, the applicants rely on the following pleas in law:

Defendants: Council of the European Union and European Commission

Form of order sought

— annul in whole or in part Council Regulation (EC) No 881/2002 ⁽¹⁾, as amended by the Commission Regulation (EC) No 14/2005 ⁽²⁾, No 492/2007 ⁽³⁾, and No 1190/2005 ⁽⁴⁾, and/or annul the Commission Regulation

The applicants argue that the freezing of their funds provided by the contested regulations infringes their fundamental human rights, namely their right to be heard and the right to effective judicial review, as they have never been informed by the Council and/or the Commission of the reasons for their inclusion in Annex I to the Council Regulation (EC) No 881/2002 and have never received any evidence justifying the imposition of restrictive measures. The applicants therefore have not had any opportunity to defend themselves and challenge the listing decisions before the European judiciary.

The applicants further submit that their right to respect for property has been infringed since the indefinite restrictions of such right caused by freezing of their funds amount to a disproportionate and intolerable interference with this fundamental human right.

- (¹) Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan (OJ L 139, p.9)
- (²) Commission Regulation (EC) No 14/2005 of 5 January 2005 amending for the 42nd time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 (OJ L 5, p.10)
- (³) Commission Regulation (EC) No 492/2007 of 3 May 2007 amending for the 75th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 (OJ L 116, p. 5)
- (⁴) Commission Regulation (EC) No 1190/2005 of 20 July 2005 amending for the 48th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 (OJ 193, p. 27)

Appeal brought on 9 February 2010 by Giorgio Lebedef against the judgment of the Civil Service Tribunal delivered on 30 November 2009 in Case F-54/09, Lebedef v Commission

(Case T-52/10 P)

(2010/C 113/78)

Language of the case: French

Parties

Appellant: Giorgio Lebedef (Senningerberg, Luxembourg) (represented by F. Frabetti, lawyer)

Other party to the proceedings: European Commission

Form of order sought by the appellant

- Annul the order of the CST of 30 November 2009 in Case F-54/09 between Giorgio Lebedef, resident at 4 Neie Wee,

L-1670 Senningerberg, Luxembourg, official at the European Commission, assisted and represented by Frédéric Frabetti, 5 rue Jean Bertels, L-1230 Luxembourg, avocat à la Cour, at whose offices service is to be made, and the Commission of the European Communities, represented by J. Currall and G. Berscheid, acting as Agents, with an address for service in Luxembourg, defendant, seeking annulment of the decisions of 15.2.2008, 1.4.2008, 10.4.2008, 20.5.2008 and 14.7.2008 concerning the deduction of 39 days from the applicant's annual leave entitlement for 2008;

- Allow the applicant's claims at first instance;
- In the alternative, refer the matter back to the Civil Service Tribunal;
- Rule on costs and order the Commission to pay the costs.

Pleas in law and main arguments

By the present appeal, the applicant seeks the annulment of the order of the Civil Service Tribunal (CST) of 30 November 2009 in Case F-54/09 *Lebedef v Commission*, rejecting as manifestly devoid of any legal basis the action by which the applicant had sought annulment of a series of decisions concerning the deduction of 39 days from his annual leave for 2008.

In support of his appeal, the applicant raises nine pleas in law, alleging:

- failure to have regard to the sixth paragraph of Article 1 of Annex II to the Staff Regulations and to Article 1(2) of the Framework Agreement governing relations between the Commission and the trade unions and professional organisations;
- incorrect interpretation and application of the concept of freedom of association;
- facts which did not exist in 2008;
- failure to have regard to the decision of the Commission of 28 April 2004 laying down provisions applicable to absence due to illness or accident;
- incorrect interpretation and application of the concepts 'participation in staff representation', 'secondment for the purposes of trade union matters' and 'absence on trade union matters';
- distortion and misrepresentation of the facts and of the applicant's assertions and material inaccuracy of the findings of the CST with regard to the registration of 'irregular absences' in SysPer2;