

3. How may the interpretative criterion underlying the Court of Justice's judgment in *Sturgeon and Others*, which allows the right to compensation under Article 7 of Regulation (EC) No 261/2004 to be extended to cover cases of delay, be reconciled with the interpretative criterion which the Court of Justice applied to that regulation in its judgment in Case C-344/04 *IATA and ELFAA* [2006] ECR I-403?

<sup>(1)</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) — Commission Statement (OJ 2004 L 46, p. 1).

**Appeal brought on 13th December 2010 by the European Commission against the judgment of the General Court (Seventh Chamber) delivered on 30th September 2010 in Case T-85/09: Yassin Abdullah Kadi v European Commission**

(Case C-584/10 P)

(2011/C 72/15)

*Language of the case: English*

**Parties**

*Appellant:* European Commission (represented by: P. Hetsch, S. Boelaert, E. Paasivirta, and M. Konstantinidis, Agents)

*Other parties to the proceedings:* Yassin Abdullah Kadi, Council of the European Union, French Republic, United Kingdom of Great Britain and Northern Ireland

**Form of order sought**

The appellants claims that the Court should:

- Set aside, in whole, the contested judgment;
- Dismiss Yassin Abdullah Kadi's application for the annulment of Commission adopted Regulation No 1190/2008 <sup>(1)</sup> insofar as it concerns him, as unfounded;
- Order that Yassin Abdullah Kadi pays the Commission's costs of this appeal and the proceedings before the General Court.

**Pleas in law and main arguments**

The Commission submits that the General Court's findings are vitiated by errors of law, as they are based on a legally erroneous standard for judicial review. The pleas of the Commission are as follows:

1. Pleas relating to the General Court's findings on the applicable standard of judicial review: The Commission submits that the standard of judicial review adopted by the General Court is legally erroneous because the Court of Justice has not settled the precise standard of judicial review applicable to this case and because the particular standard of judicial review adopted by the General Court cannot be required from the EU.
2. Pleas relating to the General Court's findings on the infringement of the rights of the defence and the right to effective judicial protection and to the infringement of the principle of proportionality: The Commission argues that the General Court erroneously held that the procedures applied by the Commission did not fulfil the fundamental rights requirements for this type of restrictive measures regime; that the GC erroneously dismissed the Commission's argument regarding the domestic proceedings brought by Mr Kadi in the United States; and that the GC erroneously dismissed the Commission's arguments regarding the administrative review and re-examination procedures established pursuant to UNSC Resolutions 1822(2008) and 1904(2009) – including the Focal Point procedure and the Office of the Ombudsperson.

<sup>(1)</sup> OJ L 322, p. 25

**Appeal brought on 16 December 2010 by the Council of the European Union against the judgment of the General Court (Seventh Chamber) delivered on 30 September 2010 in Case T-85/09: Yassin Abdullah Kadi v European Commission**

(Case C-593/10 P)

(2011/C 72/16)

*Language of the case: English*

**Parties**

*Appellant:* Council of the European Union (represented by: M. Bishop, E. Finnegan and R. Szostak, Agents)