

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (Fourth Chamber) of 3 December 2009 — Faraj Hassan v Council of the European Union, European Commission (C-399/06 P), Chafiq Ayadi, Council of the European Union (C-403/06 P)**

(Joined Cases C-399/06 P and C-403/06 P) <sup>(1)</sup>

*(Common foreign and security policy (CFSP) — Restrictive measures taken against persons and entities associated with Usama bin Laden, the Al-Qaeda network and the Taliban — Regulation (EC) No 881/2002 — Freezing of the funds and economic resources of a person following his inclusion in a list drawn up by a body of the United Nations — Sanctions Committee — Subsequent inclusion in Annex I to Regulation (EC) No 881/2002 — Action for annulment — Fundamental rights — Right to respect for property, right to be heard and right to effective judicial review)*

(2010/C 24/02)

Language of the case: English

**Parties**

**Appellant:** Faraj Hassan (represented by E. Grieves, Barrister, H. Miller, Solicitor, J. Jones, Barrister, M. Arani, Solicitor) (C-399/06 P)

**Other parties to the proceedings:** Council of the European Union (represented by: S. Marquardt, M. Bishop and E. Finnegan, Agents), European Commission (represented by P. Hetsch and P. Aalto, Agents)

**Interveners in support of the appellant:** French Republic, United Kingdom of Great Britain and Northern Ireland

**Appellant:** Chafiq Ayadi (represented by S. Cox, Barrister, H. Miller, Solicitor) (C-403/06 P)

**Other parties to the proceedings:** Council of the European Union (represented by S. Marquardt, M. Bishop and E. Finnegan, Agents), United Kingdom of Great Britain and Northern

Ireland, European Commission (represented by P. Hetsch and P. Aalto, Agents)

**Interveners in support of the Council of the European Union:** French Republic

**Re:**

Appeal brought against the judgments of the Court of First Instance (Second Chamber) delivered on 12 July 2006 in Case T-49/04 *Hassan v Council and Commission* and in Case T 403/06 *Ayadi v Council* by which the Court of First Instance dismissed applications seeking annulment of Commission Regulation (EC) No 2049/2003 of 20 November 2003 amending for the 25th 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 2003 L 303, p. 20).

**Operative part of the judgment**

*The Court:*

1. Sets aside the judgments of the Court of First Instance of the European Communities of 12 July 2006 in Case T 49/04 *Hassan v Council and Commission* and in Case T 253/02 *Ayadi v Council*;
2. Annuls 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-Qaeda 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, as amended by Commission Regulation (EC) No 46/2008 of 18 January 2008, in so far as it concerns Mr Hassan;
3. Annuls Regulation No 881/2002, as amended by Commission Regulation (EC) No 1210/2006 of 9 August 2006, in so far as it concerns Mr Ayadi;

4. Orders the Council of the European Union to pay, in addition to its own costs, the costs incurred by Mr Hassan and Mr Ayadi both at first instance and in these appeals;
5. Orders the United Kingdom of Great Britain and Northern Ireland to bear its own costs, both at first instance in the case concerning Mr Ayadi and in these appeals;
6. Orders the French Republic to bear its own costs;
7. Orders the European Commission to bear its own costs both at first instance and in the appeal in the case concerning Mr Hassan. Orders the European Commission, in the case concerning Mr Ayadi, to bear its own costs, in respect both of its intervention before the Court of First Instance of the European Communities and of the proceedings before the Court of Justice of the European Union.

<sup>(1)</sup> OJ C 294, 2.12.2006.

**Judgment of the Court (Second Chamber) of 19 November 2009 — Commission of the European Communities v Republic of Finland**

(Case C-118/07) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Article 307, second paragraph, EC — Failure to adopt appropriate steps to eliminate incompatibilities between the bilateral agreements concluded with third countries prior to accession of the Member State to the European Union and the EC Treaty — Bilateral investment agreements concluded by the Republic of Finland with the Russian Federation, the Republic of Belarus, the People's Republic of China, Malaysia, the Democratic Socialist Republic of Sri Lanka and the Republic of Uzbekistan)*

(2010/C 24/03)

Language of the case: Finnish

**Parties**

*Applicant:* Commission of the European Communities (represented by: M. Huttunen, H. Støvlbæk and B. Martenczuk, Agents)

*Defendant:* Republic of Finland (represented by: J. Heliskoski, Agent)

*Interveners in support of the defendant:* Federal Republic of Germany (represented by M. Lumma and C. Blaschke, Agents), Republic of Hungary (represented by J. Fazekas, Agent), Republic of Lithuania (represented by D. Kriaučiūnas, Agent), Republic of Austria (represented by C. Pesendorfer, Agent)

**Re:**

Failure of a Member State to fulfil obligations — Breach of the second paragraph of Article 307 EC — Failure to take the appropriate steps to eliminate the incompatibilities with the Treaty relating to the provisions on transfers in the bilateral investment agreements concluded by the Republic of Finland with the Russian Federation, Belarus, China, Malaysia, Sri Lanka and Uzbekistan

**Operative part of the judgment**

The Court:

1. Declares that by not having taken appropriate steps to eliminate incompatibilities with the Treaty concerning the provisions on transfer of capital contained in the investment agreements on the mutual promotion and protection of investments entered into by the Republic of Finland with the former Union of Soviet Socialist Republics of which the Russian Federation is the successor (agreement signed on 8 February 1989), the Republic of Belarus (agreement signed on 28 October 1992), the People's Republic of China (agreement signed on 4 September 1984), Malaysia (agreement signed on 15 April 1985), the Democratic Socialist Republic of Sri Lanka (agreement signed on 27 April 1985) and the Republic of Uzbekistan (agreement signed on 1 October 1992), the Republic of Finland has failed to fulfil its obligations under the second paragraph of Article 307 EC.;
2. Orders the Republic of Finland to pay the costs;
3. Orders the Federal Republic of Germany, the Republic of Lithuania, the Republic of Hungary and the Republic of Austria to bear their own costs.

<sup>(1)</sup> OJ C 95, 28.4.2007.

**Judgment of the Court (Second Chamber) of 6 October 2009 (reference for a preliminary ruling from the Oberster Gerichtshof (Austria)) — PAGO International GmbH v Tirolmilch registrierte Genossenschaft mbH**

(Case C-301/07) <sup>(1)</sup>

*(Trade marks — Regulation (EC) No 40/94 — Article 9(1)(c) — Trade mark with a reputation in the Community — Geographical extent of the reputation)*

(2010/C 24/04)

Language of the case: German

**Referring court**

Oberster Gerichtshof