

3. If Question 1 is answered in the affirmative, has an air carrier then taken all reasonable measures to avoid cancellation for the purposes of the Regulation if it can be established that there were no aircraft available for use for the flight in respect of which an aircraft which was taken out of operation due to technical problems was scheduled to be used?
4. If Question 1 is answered in the affirmative, is it relevant that the documentation concerning the technical problems relied on by the air carrier originates solely from the air carrier itself?

Action brought on 25 September 2006 — Commission of the European Communities v Kingdom of the Netherlands

(Case C-398/06)

(2006/C 294/53)

Language of the case: Dutch

Parties

Applicant: Commission of the European Communities (represented by: M. Condou-Durande and R. Troosters, Agents)

Defendant: Kingdom of the Netherlands

Form of order sought

- Declare that, by maintaining in force national provisions under which economically non-active and pensioned EU/EEA nationals must prove that they have lasting means of support in order to obtain a residence permit, the Kingdom of the Netherlands has failed to fulfil its obligations under Council Directive 90/364/EEC ⁽¹⁾ of 28 June 1990 on the right of residence, Council Directive 90/365/EEC ⁽²⁾ of 28 June 1990 on the right of residence for employees and self-employed persons who have ceased their occupational activity and Council Directive 68/360/EEC ⁽³⁾ of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families;
- order the Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

The requirement in the Netherlands rules that in order to obtain a residence permit a person must have sufficient means for a minimum period of one year is not in conformity with Community law.

⁽¹⁾ OJ 1990 L 180, p. 26.

⁽²⁾ OJ 1990 L 180, p. 28.

⁽³⁾ OJ, English Special Edition 1968(II), p. 485.

Appeal brought on 25 September 2006 by Faraj Hassan against the judgment of the Court of First Instance (Second Chamber) delivered on 12 July 2006 in Case T-49/04: Faraj Hassan v Council of the European Union and Commission of the European Communities

(Case C-399/06 P)

(2006/C 294/54)

Language of the case: English

Parties

Appellant: Faraj Hassan (represented by: E. Grieves, Barrister, H. Miller, Solicitor)

Other parties to the proceedings: Council of the European Union, Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

- 1) Set aside the judgment of the Court of First Instance
- 2) Annul Council Regulation (EC) No 881/2002 of 27 May 2002 ⁽¹⁾ as amended by Commission Regulation (EC) No 2049/2003 20 November 2003 ⁽²⁾ and/or Commission Regulation (EC) No 2049/2003 20 November 2003 in its entirety and/or in respect of the proscription of the Applicant; and
- 3) Alternatively declare the aforementioned Regulations inapplicable in respect of its application to the applicant; and
- 4) Take such further action as the Court may deem appropriate; and