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EUROPEISKA GEMENSKAPERNAS FÖRSTAINSTANSRÄTT

## Press and Information

### PRESS RELEASE No° 53/09

11 June 2009

Judgment of the Court of First Instance in Case T-318/01

*Omar Mohammed Othman v Council and Commission*

### THE COURT OF FIRST INSTANCE ANNULS THE COUNCIL REGULATION FREEZING OMAR MOHAMMED OTHMAN'S FUNDS

*The annulment will not take effect until the date of expiry of the period allowed for bringing an appeal before the Court of Justice or, if an appeal has been brought, from the date of its dismissal. During this period the Council will be able to adopt, if it considers it necessary, a new restrictive measure affecting Mr Othman, observing his fundamental rights.*

Omar Mohammed Othman, also known as ‘Abu Qatada’, is a Jordanian national who has lived in the United Kingdom since 1993. Since February 2001 he has been arrested several times under the antiterrorist legislation of the United Kingdom and is at the moment still in detention. The decision of the UK Government to extradite him to Jordan, upheld by a judgment of the House of Lords of 18 February 2009, is at present suspended because he has brought an action before the European Court of Human Rights.

He has been designated by the Sanctions Committee of the Security Council of the United Nations as being associated with Usama bin Laden, Al-Qaeda or the Taliban. In accordance with a number of resolutions of the Security Council, all the Member States of the United Nations must freeze the funds and other financial assets controlled directly or indirectly by such persons or entities.

In the European Community, in order to give effect to those resolutions, the Council has adopted a regulation<sup>1</sup> ordering the freezing of the funds and other financial resources of the persons and entities whose names appear in a list annexed to that regulation. That list is regularly updated to take account of changes in the summary list drawn up by the Sanctions Committee, a body of the Security Council. Thus Mr Othman’s name was added to the summary list on 19 October 2001, and then included in the list in the Community regulation.

He has brought an action for annulment of that regulation, in so far as it concerns him, before the Court of First Instance.

<sup>1</sup> 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 Regulation No 467/2001 (OJ 2002 L 139, p. 9).

The Court observes that, in *Kadi*<sup>2</sup>, the Court of Justice annulled the Council regulation in so far as it froze the funds of the two appellants, on the ground that it had been adopted in breach of their fundamental rights, in particular, rights of defence, the right to effective judicial review and the right to property.

The Court notes that both in respect of the procedure leading to the adoption of the contested regulation and in respect of the extent, effects and justification, if any, of the restriction of the use of his right to property arising from that regulation, Mr Othman finds himself in a factual and legal situation in every way comparable to that of Mr Kadi.

The Court must therefore conclude that the Council adopted the regulation in breach of Mr Othman's fundamental rights. Consequently, **the Court annuls the regulation in so far as it freezes Mr Othman's funds.**

The Court emphasises that, according to the Statute of the Court of Justice, **such a decision of the Court of First Instance declaring a regulation to be void takes effect only from the date of expiry of the period in which an appeal may be brought before the Court of Justice, that is to say, two months and ten days from notification of the judgment or, if an appeal has been brought within that period, as from the date of dismissal of the appeal.**

The Court of First Instance considers that the Council will therefore have ample time in which to remedy the infringements found by adopting, if appropriate, a new restrictive measure directed against Mr Othman, without it being necessary to maintain in force the effects of the regulation beyond that period.

**REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.**

*Unofficial document for media use, not binding on the Court of First Instance.*

*Languages available: BG, DE, EN, ES, FR*

*The full text of the judgment may be found on the Court's internet site  
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-318/01>  
It can usually be consulted after midday (CET) on the day judgment is delivered.*

*For further information, please contact Christopher Fretwell  
Tel: (00352) 4303 3355 Fax: (00352) 4303 2731*

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<sup>2</sup> Judgment of the Court of Justice in Joined Cases C-402/05 P and C-415/02 P *Kadi and Al Barakaat International Foundation v Council and Commission* [2008] ECR I 0000 (see also Press Release 60/08).