Question referred

In the case of decisions on the extradition for the purposes of criminal prosecution of a person convicted in absentia from a Member State of the European Union to another Member State, are the provisions of Directive 2016/343, ([1]) in particular Articles 8 and 9 thereof, to be interpreted as meaning that the legality of the extradition (in particular in a so-called case of absconding) depends on the fulfilment by the requesting State of the conditions laid down in the Directive?

([1]) Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, p. 1).

Appeal brought on 12 September 2020 by Carlo Tognoli and Others against the order of the General Court (Eighth Chamber) delivered on 3 July 2020 in Joined Cases T-395/19, T-396/19, T-405/19, T-408/19, T-419/19, T-423/19, T-424/19, T-428/19, T-433/19, T-437/19, T-443/19, T-455/19, T-458/19 to T-462/19, T-464/19, T-469/19 and T-477/19, Tognoli and Others v Parliament

(Case C-431/20 P)

(2020/C 390/33)

Language of the case: Italian

Parties

Appellants: Carlo Tognoli, Emma Allione, Luigi Alberto Colajanni, Claudio Martelli, Luciana Sbarbati, Carla Dimatore, as heir of Mario Rigo, Roberto Speciale, Loris Torbesi, as heir of Eugenio Melandri, Luciano Pettinari, Pietro Di Prima, Carla Barbarella, Carlo Alberto Graziani, Giorgio Rossetti, Giacomo Porrazzini, Guido Podestà, Roberto Barzanti, Rita Medici, Aldo Arroni, Franco Malerba, Roberto Mezzaroma (represented by: M. Merola and L. Florio, avvocati)

Other party to the proceedings: European Parliament

Form of order sought

The appellants claim that the Court should:

— set aside the order under appeal and remit the case to the General Court for an examination on the merits;

— order the Parliament to pay the costs of the appeal proceedings, reserving the costs of the proceedings before the General Court.

Grounds of appeal and main arguments

The appellants seek to have set aside, under Article 256 of the Treaty on the Functioning of the European Union and Article 56 of the Statute of the Court of Justice of the European Union, the order of the General Court of the European Union (Eighth Chamber) delivered on 3 July 2020, notified on 3 July 2020, in Joined Cases T-395/19, T-396/19, T-405/19, T-408/19, T-419/19, T-423/19, T-424/19, T-428/19, T-433/19, T-437/19, T-443/19, T-455/19, T-458/19 to T-462/19, T-464/19, T-469/19 and T-477/19, declaring that their actions were manifestly inadmissible.

By their first ground of appeal, the appellants claim that the General Court erred in law by holding that the contested measure did not produce legal effects within the meaning of Article 263 TFEU. That error stems from the lack of any legal basis for considering that the measure was provisional and the failure to consider its legal effects vis-à-vis its addressees. The contested measure did in fact immediately produce legal effects vis-à-vis the appellants, depriving them of a substantial part of their pension rights.

By their second ground of appeal, the appellants claim that the General Court erred in law by interpreting and applying Article 86 of the Rules of Procedure of the General Court in a manner contrary to its purpose and effectiveness. The purpose of that rule is in fact to avoid the unnecessary multiplication of actions. Further, the General Court, by declaring that each action and the statement modifying each application was inadmissible, committed a second error of law, the effect of which is, paradoxically, to deprive the appellants of judicial protection.

By their third ground of appeal, the appellants claim that two procedural errors, which should lead to the setting aside of the order, were committed, in particular: infringement of the principle *audi alteram partem* and an error of law in the application of Article 126 of the Rules of Procedure of the General Court.

As regards the first limb, the appellants were not given the opportunity to respond to the plea of inadmissibility raised by the European Parliament regarding the statement modifying each application. Further, the General Court's conduct is exacerbated by its decision that a second exchange of pleadings was not necessary and its failure to hold a hearing, depriving the appellants of the possibility of setting out their own position on the plea of inadmissibility regarding the statement modifying each application, despite the appellants having made a formal request in that regard.

In addition, the inconsistent procedural choices made by the General Court show that each action was not immediately clearly and unquestionably and therefore manifestly inadmissible within the meaning of Article 126 of the Rules of Procedure of the General Court. Accordingly, the conditions laid down for the application of that article were not satisfied.

Request for a preliminary ruling from the Verwaltungsgericht Wien (Austria) lodged on 14 September 2020 — ZK

(Case C-432/20)

(2020/C 390/34)

Language of the case: German

Referring court

Verwaltungsgericht Wien

Parties to the main proceedings

Applicant: ZK

Defendant authority: Landeshauptmann von Wien

Questions referred

1. Must Article 9(1)(c) of Directive 2003/109/EC [1] be interpreted as meaning that any physical stay, no matter how short, of a third-country national who is a long-term resident in the territory of the Community during a period of 12 consecutive months precludes loss of the status of long-term resident third-country national under this provision?
2. If the Court answers Question 1 in the negative: What qualitative and/or quantitative requirements must stays in the territory of the Community for a period of 12 consecutive months satisfy in order to preclude loss of the status of long-term resident third-country national? Do stays during a period of 12 consecutive months in the territory of the Community preclude loss of the status of long-term resident third-country national only if the third-country nationals concerned had their habitual residence or centre of interests in the territory of the Community during that period?
3. Are rules of the legal systems of the Member States, which provide for loss of the status of long-term resident third-country national where such third-country nationals resided in the territory of the Community for a period of 12 consecutive months, but had neither their habitual residence nor centre of interests there, compatible with Article 9(1)(c) of Directive 2003/109/EC?

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[1] Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44).