

2. Is the purpose of the concept of abuse to maximise the well-being of consumers, with the court being responsible for determining whether that well-being has been (or could be) reduced, or does the concept of an infringement of competition law have the function of preserving in itself the competitive structure of the market, in order to avoid the creation of economic power groupings that are, in any case, considered harmful for the community?
3. In the case of an abuse of a dominant position represented by an attempt to prevent the continuation or development of the existing level of competition, is the dominant undertaking in any case permitted to prove that the conduct did not cause any actual harm, despite its abstract ability to generate a restrictive effect? If the answer to that question is in the affirmative, for the purposes of assessing whether an atypical exclusionary abuse has occurred, must Article 102 TFEU be interpreted as meaning that the Authority has an obligation to examine specifically the economic analyses produced by the party concerning the actual ability of the conduct examined to exclude its competitors from the market?
4. Must an abuse of a dominant position be assessed solely in terms of its effects on the market (including merely potential effects), without regard to the subjective motive of the agent, or does a demonstration of restrictive intent constitute a parameter that may be used (even exclusively) to assess the abusive nature of the dominant undertaking's conduct? Does such a demonstration of the subjective component serve only to shift the burden of proof to the dominant undertaking (which would have the burden, at this stage, of providing evidence that the exclusionary effect is absent)?
5. In the case of a dominant position held by a number of undertakings belonging to the same corporate group, is membership of that group sufficient to assume that even those undertakings that have not implemented the abusive conduct have contributed to the infringement, so that the supervisory authority would merely need to demonstrate a conscious, albeit non-collusive, parallel approach by the undertakings operating within the collectively dominant group? Or (as is the case for the prohibition on cartels) is there in any case a need to provide evidence, even indirectly, of a specific situation of coordination and instrumentality among the various undertakings within the dominant group, in particular in order to demonstrate the involvement of the parent company?

**Request for a preliminary ruling from the Østre Landsret (Denmark) lodged on 11 August 2020 — B
v Udlændingenævnet**

(Case C-379/20)

(2020/C 348/16)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicant: B

Defendant: Udlændingenævnet

Question referred

Does Article 13 of Decision No 1/80 of the Association Council of 19 September 1980 ⁽¹⁾ on the development of the Association, which is linked to the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963 by the Republic of Turkey, on the one hand, and by the Member States of the EEC and the Community, on the other, and concluded, approved and confirmed on behalf of the Community by Council Decision 64/732/EEC ⁽²⁾ of 23 December 1963, preclude the introduction and application of a new national measure under which family reunification between an economically active Turkish national who is lawfully resident in the Member State in question and that person's child who is 15 years of age is subject to the condition that very specific grounds, including the consideration of family unity and the consideration of the best interests of the child, support such reunification?

⁽¹⁾ Decision No 1/80 of the Association Council of 19 September 1980 on the application of the social security schemes of the Member States of the European Communities to Turkish workers and members of their families (OJ 1983 C 110, p. 60).

⁽²⁾ 64/732/EEC: Council Decision of 23 December 1963 on the conclusion of the Agreement establishing an Association between the European Economic Community and Turkey (OJ 1964 217, p. 3685).