

Request for a preliminary ruling from the Verwaltungsgericht Berlin (Germany) lodged on 21 November 2014 — Ukamaka Mary Jecinta Oruche and Nzubechukwu Emmanuel Oruche v Bundesrepublik Deutschland

(Case C-527/14)

(2015/C 026/22)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicants: Ukamaka Mary Jecinta Oruche and Nzubechukwu Emmanuel Oruche

Defendant: Bundesrepublik Deutschland

Other parties: Oberbürgermeister der Stadt Potsdam, Emeka Emmanuel Mary Oruche

Question referred

Should the first subparagraph of Article 7(2) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification ⁽¹⁾ be interpreted as precluding a provision of national law which makes the first entry of a member of the family of a sponsor conditional on the requirement that, prior to entry, the family member can demonstrate the ability to communicate, in a basic way, in the German language?

⁽¹⁾ OJ 2003 L 251, p. 12.

Appeal brought on 21 November 2014 by the European Commission against the judgment of the General Court (Second Chamber) delivered on 11 September 2014 in Case T-425/11 Greece v Commission

(Case C-530/14 P)

(2015/C 026/23)

Language of the case: Greek

Parties

Appellant: European Commission (represented by: A. Bouchagiar and P.J. Loewenthal)

Other party to the proceedings: Hellenic Republic

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court (Second Chamber) of 11 September 2014, notified to the Commission on 12 September 2014, in Case T-425/11 *Greece v Commission* (ECLI:EU:T:2014:768);
- refer the case back to the General Court for it to rule again;
- reserve the costs of these proceedings.

Pleas in law and main arguments

The appeal is based on a single ground: the General Court misinterpreted and misapplied Article 107(1) TFEU in ruling that the contested measure did not provide any advantage for the public casinos. The single ground of appeal advanced by the Commission has three parts.

First, in paragraphs 52 to 58 of the judgment under appeal, the General Court infringed Article 107(1) TFEU in ruling that the public casinos did not enjoy an advantage from the payment of a lower tax for each entering customer on the basis of the contested measure, since the amounts paid represented 80 % of the mandatory entry fees which were charged by both the private and public casinos.

Second, in paragraphs 59 to 68 of the judgment under appeal, the General Court infringed Article 107(1) TFEU in ruling that it was not sufficient for the Commission to define the advantage of the contested measures as direct (*de jure*) tax discrimination, but that the Commission was obliged to base the existence of an advantage on an economic analysis of the effects of the contested measure.

Third, in paragraphs 74 to 80 of the judgment under appeal, the General Court infringed Article 107(1) TFEU in ruling that (i) the practice of free entry could not confirm the advantage of the contested measure since that measure did not provide any advantage and (ii) before that argument could be effective the Commission was bound to provide evidence that in practice the number of free entries granted was excessively high in comparison with the objectives of the Greek legislation which permitted that practice, so as to be incompatible with the conditions of that national legislation.

**Appeal brought on 24 November 2014 by Vadzim Ipatau against the judgment of the General Court
(First Chamber) delivered on 23 September 2014 in Case T-646/11 Ipatau v Council**

(Case C-535/14 P)

(2015/C 026/24)

Language of the case: French

Parties

Appellant: Vadzim Ipatau (represented by: M. Michaluskas, avocat)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of 23 September 2014 (Case T-646/11),
- give final judgment in the matter or refer the case back to the General Court for judgment,
- order the Council to pay the costs, including the costs before the General Court.

Pleas in law and main arguments

The appellant relies on four grounds of appeal.

In the first place, the appellant submits that the General Court infringed the right to effective judicial protection by denying the filing of an application for legal aid any suspensory effect on the period prescribed for bringing an action for annulment against the contested measure.

In the second place, the appellant complains that the General Court infringed his rights of defence. The General Court held that the Council was not required to disclose to the appellant the evidence against him, nor required to give him the opportunity to be heard before the adoption of Decision 2012/642/CFSP⁽¹⁾ and Implementing Regulation No 1017/2012⁽²⁾.

In the third place, the General Court erred in law in taking the view that the grounds set out in the contested measures were sufficient.