

Although the General Court decided that joint examination of the objection of inadmissibility and the substance was not justified, it found that the legal context under which the obligation for Romania to pay arose came under the rules set out in Decision 2007/436⁽¹⁾ and Regulation No 1150/2000,⁽²⁾ and ruled that the Romanian State had an obligation arising under those provisions to determine and pay the amount of EUR 14 883,79 as traditional own resources.

By analysing the nature and basis of the payment obligation, the General Court ruled on the substance of the case and, in doing so, acted at variance with its decision to rule exclusively on the objection of inadmissibility.

2. Second ground — Breach of EU law by the General Court

Romania takes the view that the General Court erred in classifying the nature of the obligations attributed to it by letter BUDG/B3/MV D(2014) 3079038 of 19 September 2014, thereby committing an error of law which affected the General Court's analysis of (i) the assessment of the Commission's power and (ii) the nature of the disputed letter.

In the alternative, Romania takes the view that the General Court infringed EU law and misapplied the case-law of the Court of Justice in concluding that it is for the Member States to determine whether there is a loss of traditional own resources, as well as the existence of an obligation to pay such resources.

In addition, Romania disputes the applicability of the mechanism of interim payment in the present case and, in that respect, the related findings of the General Court.

⁽¹⁾ Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources (OJ 2007 L 163, p. 17).

⁽²⁾ Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the European Communities' own resources (OJ 2000 L 130, p. 1).

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 17 November 2015 — J.N.; other party: Staatssecretaris van Justitie en Veiligheid

(Case C-601/15)

(2016/C 038/47)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellant: J.N.

Other party: Staatssecretaris van Justitie en Veiligheid

Question referred

Is Article 8(3)(e) of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ 2013 L 180, p. 96) valid in the light of Article 6 of the Charter of Fundamental Rights of the European Union (OJ 2007 C 303, p. 1):

1. in a situation where a third-country national has been detained pursuant to Article 8(3)(e) of that directive and, under Article 9 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60), has the right to remain in a Member State until a decision on his asylum application has been made at first instance, and

2. in view of the Explanation (OJ 2007 C 303, p. [19]) that the limitations which may legitimately be imposed on the rights in Article 6 of the Charter may not exceed those permitted by the European Convention on Human Rights in the wording of its Article 5(1)(f), and in the light of the interpretation by the European Court of Human Rights of the latter provision in, inter alia, the judgment of 22 September 2015 in *Nabil and Others v Hungary*, 62116/12, according to which the detention of an asylum-seeker is contrary to the aforementioned Article 5(1)(f) if such detention was not imposed with a view to removal?

Appeal brought on 15 November 2015 by Ana Pérez Gutiérrez against the judgment of the General Court (Third Chamber) delivered on 9 September 2015 in Case T-168/14 Pérez Gutierrez v Commission

(Case C-604/15 P)

(2016/C 038/48)

Language of the case: Spanish

Parties

Appellant: Ana Pérez Gutiérrez (represented by: J. Soler Puebla, abogado)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should set aside the judgment of the General Court of 9 September and continue the proceedings, giving a new judgment in which it:

1. Declares that when the Commission, using without consent the image of Patrick Johannes Jacquemyn, included his photograph in the picture library of health warnings for tobacco products in the European Union, it infringed the right to honour, to personal and family privacy and to one's own image.
2. Orders the respondent to pay the appellant the sum of EUR 181 104 for loss of earnings.
3. Orders the respondent to pay the appellant the sum of one euro cent (EUR 0,01) per tobacco packet or product bearing the picture of Patrick Jacquemyn, the total amount — presently twenty seven million, five hundred and eighty-eight thousand and five hundred and twenty-four euros (EUR 27 588 524) — to be determined upon enforcement of the judgment.
4. Order the respondent to pay the appellant compensation for the profit derived from the unlawful use of the picture of Patrick Jacquemyn, amounting to EUR 13 790 000 in Spain, the place of residence of the appellant and of Patrick Jacquemyn.

Pleas in law and main arguments

Discrepancies between the conduct of the hearing and the contents of the judgment

The appellant has never accepted the European Commission's statements, but has merely agreed to the production of the unredacted documents out of time, which was not made clear in the judgment.

Infringement of Article 15.3 of the Treaty on the Functioning of the European Union

Breach of the principle of the European standard of EU citizens' access to the documentation used by an EU body in adopting its decisions. The appellant has repeatedly requested documentation on the image rights for the photograph at issue which was never provided to her.