Parties to the main proceedings

Applicant: MP

Defendant: Secretary of State for the Home Department

Question referred

Does article 2(e), read with article 15(b), of EU Council Directive 2004/83/EC ([1]) cover a real risk of serious harm to the physical or psychological health of the applicant if returned to the country of origin, resulting from previous torture or inhuman or degrading treatment for which the country of origin was responsible?

([1]) Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted OJ L 304, p. 12

Appeal brought on 7 July 2016 by Inclusion Alliance for Europe GEIE against the order of the General Court (Ninth Chamber) of 21 April 2016 in Case T-539/13, Inclusion Alliance for Europe v Commission

(Case C-378/16 P)

(2016/C 326/29)

Language of the case: Italian

Parties

Appellant: Inclusion Alliance for Europe GEIE (represented by: S. Famiani, avvocato)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the order under appeal;

— order the Commission to pay the costs.

Pleas in law and main arguments

By decision of 17 July 2013, the European Commission requested payment from Inclusion Alliance for Europe of a total amount of EUR 212 411,89 in respect of Projects No 224 482 (MARE), No 216 820 (SENIOR), and No 225 010 (ECRN). Inclusion Alliance for Europe brought an action seeking annulment of that decision before the General Court, which gave a decision by reasoned order pursuant to Article 126 of the Rules of Procedure of the General Court.

Inclusion Alliance for Europe claims that the order under appeal should be set aside in its entirety, for the reasons outlined below.

The order under appeal failed to take into account or to apply the general principles of EU law in the assessment of the action brought against the Commission's decision.

The General Court erroneously regarded the arguments put forward in the reply as pleas in law which had been submitted for the first time, whereas they are, on the contrary, clarifications of the pleas in law and arguments already set out in the original application, with the result that there is no infringement of Article 44(1) of the Rules of Procedure of the General Court of 2 May 1991.

Regarding the submissions made concerning the principles of EU law applicable to the audit procedure, the General Court provided an inadequate, or even no, statement of reasons, incorrectly continuing to bring the case back to the issue of interpretation/breach of contract rather than taking the infringement of the general principles of EU law into account.

The order under appeal fails to take into account or to apply the general principles of EU law with regard to the claim of unjust enrichment and the claim for compensation brought against the European Commission.

Appeal brought on 19 July 2016 by the Federal Republic of Germany against the judgment of the General Court (Third Chamber) of 10 May 2016 in Case T-47/15, Federal Republic of Germany v European Commission

(Case C-405/16 P)

(2016/C 326/30)

Language of the case: German

Parties

Appellant: Federal Republic of Germany (represented by: T. Henze and R. Kanitz, Agents, assisted by T. Lübbig, Rechtsanwalt)

Other party to the proceedings: European Commission

Form of order sought

The Federal Republic of Germany claims that the Court should:

— set aside, in its entirety, the judgment under appeal of the General Court (Third Chamber) of 10 May 2016 in Case T-47/15;

— order the European Commission to pay the costs of the proceedings.

Grounds of appeal and main arguments

The appeal is based on three grounds of appeal:

1. First ground of appeal

The judgment of the General Court under appeal failed to have regard for the limits of the definition of aid under Article 107(1) TFEU in the interpretation of 'State resources' and State 'control' over the financial resources of private undertakings. The judgment under appeal wrongly assumes that 'authorities' of the Federal Republic of Germany, on the basis of the requirements of the German Renewable Energy Law, exercise 'control', and therefore administrative power, over the financial means of transmission system operators and energy supply undertakings integrated into the existing system in Germany for promoting renewable energies. The General Court ought properly to have recognised that the Renewable Energy Law creates solely private-law contractual relations between single undertakings in the German energy market but establishes no State control over the financial means of those undertakings.

2. Second ground of appeal

The appellant criticises the General Court for having wrongly held that the German Renewable Energy Law provides an advantage amounting to aid to energy-intensive undertakings as final consumers. In so holding, the General Court failed to have regard for the case-law relating to structural disadvantages and also to the criterion of the selectivity of aid.