

### Grounds of appeal and main arguments

The first ground of appeal is based on infringement of EU law by the General Court, errors in law and infringement of essential procedural requirements. The appellant fully justified the filing of new documents in the course of the proceedings by reason of new facts. Those documents constitute the amplification of those which had been submitted to the Secretary-General of the Parliament. The General Court had unlimited jurisdiction which required that those documents be taken into account in order to establish whether or not parliamentary assistant work had been carried out and, consequently, whether or not the recovery of undue payments was well founded. Moreover, some of that evidence was in the Parliament's possession, but had been hidden from the appellant.

The second ground of appeal is based on infringement by the General Court of the rights of the defence and essential procedural requirements. The absence of a hearing of the appellant by the Secretary-General of the Parliament and the failure to transmit the file amount to an infringement of the appellant's rights of defence, of the right to be heard in person before any decision, even an administrative decision, is taken, of the principles of equality of arms and procedural fairness, of the right to be heard by an impartial forum and of the prohibition of denial of justice stemming from the Implementing Measures, the Charter of Fundamental Rights of the European Union, Article 6 of the European Convention of Human Rights and the general principles of law. Nor did the General Court note the failure to state reasons which vitiates the decision of the Secretary-General.

The third ground of appeal is based on infringement of EU law by the General Court, errors in law and an error of legal characterisation of the facts, distortion of the facts and evidence, discrimination and *fumus persecutionis*, and infringement of the principles of legitimate expectations and legality.

The fourth ground of appeal is based on misuse of power, as the judgment under appeal endorses the conduct of the Secretary-General of the Parliament, whose real objective and ultimate aim were to harm the appellant and her party.

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### Request for a preliminary ruling from the Förvaltningsrätten i Göteborg (Sweden) lodged on 13 August 2018 — AA v Migrationsverket

(Case C-526/18)

(2018/C 381/17)

*Language of the case: Swedish*

### Referring court

Förvaltningsrätten i Göteborg

### Parties to the main proceedings

*Applicant:* AA

*Defendant:* Migrationsverket

### Questions referred

1. Do the provisions of the Schengen Agreement or the Schengen Borders Code preclude provisions of national law such as those set out in Paragraph 16 of the Lagen (2016:752) om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige (Law (2016:752) on temporary restrictions on the possibility of obtaining a residence permit in Sweden) and which mean that a residence permit for study at secondary school level may be granted to a third-country national who is in a Member State, even if his or her identity is unclear or he or she is unable to provide prima facie evidence of his or her stated identity?

2. If, in such a situation, the Schengen acquis is deemed to include a requirement that identity has been made clear or for which prima facie evidence has been provided, can the provisions of the Returns Directive <sup>(1)</sup> or any other EU legislation be interpreted as permitting an exception from that identity requirement?

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<sup>(1)</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).

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**Action brought on 27 August 2018 — European Commission v Romania**

**(Case C-549/18)**

(2018/C 381/18)

*Language of the case: Romanian*

**Parties**

*Applicant:* European Commission (represented by: T. Scharf, G. von Rintelen and L. Radu Bouyon, acting as Agents)

*Defendant:* Romania

**Form of order sought**

The applicant claims that the Court should:

- declare that, by failing to adopt, by 26 June 2017, the laws, regulations and administrative provisions necessary to comply with Directive 2015/849/EU of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, <sup>(1)</sup> or, in any event, by failing to communicate such measures to the Commission, Romania has failed to fulfil its obligations under Article 67 of that directive;
- order Romania, in accordance with Article 260(3) TFEU, to pay a penalty in the amount of EUR 21 974,40 for each day of delay in complying with its obligation to communicate the measures necessary to ensure transposition of Directive 2015/849/EU, with effect from the day on which judgment is delivered in the present case;
- order Romania, in accordance with Article 260(3) TFEU, to pay a lump sum, based on a daily amount of EUR 6 016,80, multiplied by the number of days which have elapsed from the day following the expiry of the deadline for transposition laid down in the directive in question until the day on which Romania fulfils its obligations or, if it fails to fulfil those obligations, until the day on which the Court delivers its judgment, subject to exceeding a minimum lump sum of EUR 1 887 000;
- order Romania to pay the costs.

**Pleas in law and main arguments**

1. The Member States had an obligation, under Article 67 of Directive 2015/849/EU, to bring into force the laws, regulations and administrative provisions necessary to comply with that directive by 26 June 2017. Since Romania has failed to communicate transposition measures, the Commission has decided to refer the matter to the Court of Justice.
2. In its application, the Commission claims that the Court should order Romania to pay a lump sum and periodic penalty payments pursuant to Article 260(3) TFEU.

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<sup>(1)</sup> OJ 2015 L 141, p. 73.