

- in the alternative, set aside points 3 and 4 of the operative part of the judgment under appeal and refer the case back to the General Court;
- order the Commission to pay the costs.

Pleas in law and main arguments

The appeal is based on two grounds of appeal:

With respect to the first contested decision the General Court erred in applying Article 263(4) TFEU since the appellant was individually concerned. The General Court misjudged that the case does not reflect the typical scenario in which competition between several suppliers of goods is affected but between bidders, which request a certain good.

With respect to the second contested decision the General Court erred in applying Articles 107(1) and 296(2) TFEU as well as Articles 4(3) and 20(2) of the procedural Regulation No (EU) 659/1999^(?) and the principle of a diligent and impartial investigation.

⁽¹⁾ Commission Decision (EU) 2016/151 of 1 October 2014 on the State aid SA.31550 (2012/C) (ex 2012/NN) implemented by Germany for Nürnbergring (notified under document C(2014) 3634) (OJ 2016, L 34, p. 1).

⁽²⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999, L 83, p. 1).

Request for a preliminary ruling from the Conseil du Contentieux des étrangers (Belgium) lodged on 10 September 2019 — X v État belge

(Case C-671/19)

(2019/C 372/26)

Language of the case: French

Referring court

Conseil du Contentieux des étrangers

Parties to the main proceedings

Applicant: X

Defendant: État belge

Questions referred

1. Is the statement contained in Article 34(5) of Directive 2016/801⁽¹⁾ that the appeal provided for in that article is to be organised 'in accordance with national law' to be interpreted as meaning that it is for the national legislature alone to determine the procedural rules governing that appeal, without the national court being required to verify whether those rules are consistent with the right to an effective remedy within the meaning of Article 47 of the Charter of Fundamental Rights of the European Union?
2.
 - (a) If the answer to the first question is in the negative, must the appeal provided for in Article 34(5) of Directive 2016/801, in order to be effective within the meaning of Article 47 of the Charter, include a possibility of having access in all cases to an exceptional appeal procedure, conducted as a matter of extreme urgency, where the person concerned demonstrates that he has exercised all due diligence and that compliance with the time limits imposed in order to conduct an ordinary procedure could hamper the pursuit of the studies in question?
 - (b) If the answer to that question is in the negative, must the same negative answer be given where failure to adopt a decision in a short period of time risks causing the person concerned irretrievably to lose a year of study?

3. If the answer to part (a) or part (b) of the second question is in the affirmative, is the national court required to give preference to an interpretation of the law which is consistent with the purpose of Directive 2016/801 in order to arrive at a solution compatible with the objective pursued by that directive, by agreeing to examine as a matter of extreme urgency an application for suspension of enforcement of a decision as referred to in Article 20 of that directive, even though the *travaux préparatoires* for the law might suggest that that was not the legislature's intention?
4. If the answer to the first question is in the negative, does the appeal referred to in Article 34(5) of Directive 2016/801 require the Member States, in order to comply with Article 47 of the Charter, to provide that, in certain circumstances, the court may order the authority to issue the visa?

(¹) Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ 2016 L 132, p. 21).

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2. (a) If the answer to the first question is in the negative, must the appeal provided for in Article 34(5) of Directive 2016/801, in order to be effective within the meaning of Article 47 of the Charter, include a possibility of having access in all cases to an exceptional appeal procedure, conducted as a matter of extreme urgency, where the person concerned demonstrates that he has exercised all due diligence and that compliance with the time limits imposed in order to conduct an ordinary procedure could hamper the pursuit of the studies in question?

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