

The fourth ground of appeal, relating to paragraph 55 of the judgment under appeal, alleges distortion of the grounds of the decision of 29 May 2017.

The fifth ground of appeal, relating to paragraph 56 of the judgment under appeal, alleges distortion of the plea in law contained in the application concerning the failure to comply with the duty to state reasons.

The sixth ground of appeal alleges a contraction in the reasoning in paragraphs 81 and 83 of the judgment under appeal.

The seventh ground of appeal, relating to paragraph 84 of the judgment under appeal, alleges a distortion of the arguments, a substantially inaccurate assessment arising from an incomplete examination of the case file and the inadequacy of the General Court's response to the appellant's arguments.

Appeal brought on 10 December 2019 by Esim Chemicals GmbH against the order of the General Court (Fourth Chamber) delivered on 9 October 2019 in Case T-713/18, Esim Chemicals v EUIPO

(Case C-902/19 P)

(2020/C 161/25)

Language of the case: English

Parties

Appellant: Esim Chemicals GmbH (represented by: I. Rungg, Rechtsanwalt, I. Innerhofer, Rechtsanwältin)

Other party to the proceedings: European Union Intellectual Property Office

By order of 3 March 2020 the Court of Justice (Chamber determining whether appeals may proceed) held that the appeal is not allowed to proceed and that Esim Chemicals GmbH shall bear its own costs.

Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark (Austria) lodged on 16 December 2019 — Fluctus s.r.o. and Others

(Case C-920/19)

(2020/C 161/26)

Language of the case: German

Referring court

Landesverwaltungsgericht Steiermark

Parties to the main proceedings

Appellants: Fluctus s.r.o., Fluentum s.r.o., KI

Respondent authority: Landespolizeidirektion Steiermark

Other party: Finanzpolizei Team 96 für das Finanzamt Deutschlandsberg Leibnitz Voitsberg

Questions referred

1. Is Article 56 TFEU to be interpreted as meaning that, in the assessment of the impermissible advertising practices of the licence holder formulated by the Court of Justice of the European Union in its established case-law in the case of a State gambling monopoly, the relevant issue is whether there has in fact been growth in the gambling market considered overall in the relevant period, or is it sufficient that the advertising is aimed at stimulating active participation in gambling, such as by trivialising gambling, conferring on it a positive image because revenues derived from it are used for activities in the public interest, or by increasing its attractiveness by means of enticing advertising messages holding out the tantalising prospect of major winnings?

2. Is Article 56 TFEU also to be interpreted as meaning that advertising practices of a monopolist, should they exist, in any event rule out the coherence of the monopoly system, or is it possible for active participation in gambling also to be stimulated by the monopolist in the event of corresponding advertising activities of private providers, such as by trivialising gambling, giving it a positive image because revenues derived from it are used for activities in the public interest, or by increasing its attractiveness by means of enticing advertising messages holding out the tantalising prospect of major winnings?
3. Is a national court which is called upon, within the scope of its jurisdiction, to apply Article 56 TFEU under a duty, of its own motion, to give full effect to those provisions by refusing to apply any, in its opinion, conflicting provision of national law, even if the compliance of such a provision with EU law has been confirmed in constitutional-law proceedings?

**Request for a preliminary ruling from the Szegedi Közigazgatási és Munkaügyi Bíróság (Hungary)
lodged on 18 December 2019 — FMS and FNZ v Országos Idegenrendészeti Főigazgatóság Dél-alföldi
Regionális Igazgatóság and Országos Idegenrendészeti Főigazgatóság**

(Case C-924/19 PPU)

(2020/C 161/27)

Language of the case: Hungarian

Referring court

Szegedi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicants: FMS and FNZ

Defendants: Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság and Országos Idegenrendészeti Főigazgatóság

Questions referred

1. [*New ground of inadmissibility*]

Must the provisions on inadmissible applications in Article 33 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 (recast) ('the Procedures Directive')⁽¹⁾ be interpreted as precluding a Member State's legislation under which an application made in the context of the asylum procedure is inadmissible when the applicant reached Hungary via a country where he was not exposed to persecution or a risk of serious harm, or in which a sufficient degree of protection is guaranteed?

2. [*Conduct of an asylum procedure*]

- (a) Must Article 6 and Article 38(4) of the Procedures Directive, and recital 34 thereto, which imposes an obligation to examine applications for international protection, read in the light of Article 18 of the Charter of Fundamental Rights ('the Charter'), be interpreted as meaning that the competent asylum authority of a Member State must ensure that the applicant has the opportunity to initiate the asylum procedure if it has not examined the substance of the application for asylum by relying on the ground of inadmissibility mentioned in Question 1 above and has subsequently ordered the return of the applicant to a third country which has however refused to readmit him?
- (b) If the answer to question 2(a) is in the affirmative, what is the exact extent of that obligation? Does it imply an obligation guaranteeing the possibility to submit a new application for asylum, thereby excluding the negative consequences of subsequent applications referred to in Articles 33(2)(d) and 40 of the Procedures Directive, or does it imply the automatic start or conduct of the asylum procedure?