

Form of order sought

The appellant claims that the Court should:

- set aside the judgment under appeal to the extent that it declares the proceedings at first instance admissible for the purpose of the final limb of the fourth paragraph of Article 263 TFEU;
- declare the action at first instance inadmissible under the second and last limb of the fourth paragraph of Article 263 TFEU and consequently dismiss it in its entirety;
- order Mr Ferracci to pay the costs incurred by the Commission in the proceedings before the General Court and in the present proceedings.

Pleas in law and main arguments

By a single plea in law, divided into three parts, the Commission claims that the last limb of the fourth paragraph of Article 263 TFEU was misinterpreted and misapplied in that the General Court ruled that the action of the applicant at first instance was admissible on the basis of that provision. In particular, the General Court erred in law by finding that the contested act amounted to a regulatory act which was of direct concern to the applicant at first instance and did not entail implementing measures in respect of the applicant himself.

**Request for a preliminary ruling from the Conseil du contentieux des étrangers (Belgium) lodged on
12 December 2016 — X, X v État belge**

(Case C-638/16)

(2017/C 038/24)

Language of the case: French

Referring court

Conseil du contentieux des étrangers

Parties to the main proceedings

Applicants: X, X

Defendant: État belge

Questions referred

1. Do the 'international obligations', referred to in Article 25(1)(a) of Regulation No 810/2009 ⁽¹⁾ of 13 July 2009 establishing a Community Code on Visas cover all the rights guaranteed by the Charter of Fundamental Rights of the European Union, including, in particular, those guaranteed by Articles 4 and 18, and do they also cover obligations which bind the Member States, in the light of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 33 of the Geneva Convention Relating to the Status of Refugees?
2. A. In view of the answer given to the first question, must Article 25(1)(a) of Regulation No 810/2009 of 13 July 2009 establishing a Community Code on Visas be interpreted as meaning that, subject to its discretion with regard to the circumstances of the case, a Member State to which an application for a visa with limited territorial validity has been made is required to issue the visa applied for, where a risk of infringement of Article 4 and/or Article 18 of the Charter of Fundamental Rights of the European Union or another international obligation by which it is bound is detected?

B. Does the existence of links between the applicant and the Member State to which the visa application has been made (for example, family connections, host families, guarantors and sponsors) affect the answer to that question?

⁽¹⁾ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ 2009 L 243, p. 1).