



## PRESS RELEASE No 124/24

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Judgment of the Court in Case C-14/23 | Perle

### **Authorisation to reside on the territory of a Member State for the purposes of studies: a Member State may reject an abusive application for authorisation, even if it has not correctly transposed the directive that provides for that option**

*The prohibition of abusive practices is a general principle of EU law, the application of which is not subject to a requirement of transposition*

In August 2020, a Cameroonian national made an application for a visa in order to study in Belgium. The Belgian State refused it on the ground that the study plan of the person concerned is inconsistent. It considered that her application is in fact aimed at purposes other than the pursuit of studies since she has no genuine intention to study in Belgium. The person concerned challenged that decision before the Conseil du contentieux des étrangers (Council for asylum and immigration proceedings) (Belgium) which rejected the action. In January 2021, she lodged an appeal before the Belgian Council of State.

The Belgian Council of State has made a reference to the Court of Justice in that regard. In its judgment, the Court holds that the directive on the conditions of entry and residence in the European Union for third-country nationals for the purposes of studies <sup>1</sup> **does not preclude a Member State, from rejecting an application for admission to its territory for study purposes where the third-country national has submitted that application without having a genuine intention of studying there**, even when that Member State has not transposed the provision of the directive which permits such rejection. The **prohibition of abusive practices** is a general principle of EU law, the application of which is not subject to **a requirement of transposition**.

As regards the circumstances based on which it may be concluded that the application is abusive, the Court considers that such a conclusion must be based on an examination on a case-by-case basis, following an individual assessment of all the circumstances specific to each application. In that regard, the competent authorities must carry out all appropriate checks and request the evidence in order to carry out an individual assessment of the application. The Court notes that **inconsistencies in an applicant's planned studies may also constitute one of the objective circumstances contributing to a finding of an abusive practice**, provided that those inconsistencies are apparent and that they are assessed in the light of the particular case.

Finally, as regards a question linked to the right to an effective remedy, the Court considers that it does not preclude a national rule, under which the court hearing an application challenging the compatibility of an administrative decision with EU law only has jurisdiction to annul that decision without having the power to alter it. In order to ensure that right, it is sufficient that the administrative authorities are **bound** by the judgment of the court or tribunal concerned and that the adoption of a new decision can take place within a **short period of time**.

**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>1</sup> [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.