

SUMMARY

ECJ 7 August 2018, C-123/17 (Yılmaz), Free movement

***Nefiye Yılmaz – v
– Landeshauptstadt Stuttgart, German
case***

Question

Must Article 7 of Decision No 2/76 or Article 13 of Decision No 1/80 be interpreted as meaning that a national measure, such as that at issue in the main proceedings, introduced during the period from 20 December 1976 to 30 November 1980, which makes the grant of a residence permit for the purposes of family reunification to third-country nationals who are family members of a Turkish worker residing lawfully in the Member State concerned, subject to such nationals obtaining, before entry onto national territory, a visa for the purpose of that reunification, constitutes a ‘new restriction’ within the meaning of those provisions, and, if so, whether such a measure may nevertheless be justified on grounds of effective immigration control and the management of migratory flows?

Ruling

Article 7 of Decision No 2/76 of 20 December 1976 adopted by the Association Council set up by the Agreement establishing an Association between the European Economic Community and Turkey, signed in Ankara on 12 September 1963 by the Republic of Turkey, on the one hand, and by the Member States of the EEC and the Community, on the other, and concluded, approved and confirmed on behalf of the Community by Council Decision 64/732/EEC of 23 December 1963, must be interpreted as meaning that a national measure, such as that at issue in the main proceedings, taken during the period from 20 December 1976 to 30 November 1980, which makes the grant, for the purposes of family reunification, of a residence permit to third-country nationals who are family members of a Turkish worker residing lawfully in the Member State concerned, subject to such nationals obtaining, before entering national

territory, a visa for the purpose of that reunification, constitutes a ‘new restriction’ within the meaning of that provision.

Such a measure may nevertheless be justified on the grounds of the effective control of immigration and the management of migratory flows, but may be accepted only provided that the detailed rules relating to its implementation do not go beyond what is necessary to achieve the objective pursued, which it is for the national court to verify.

Creator: European Court of Justice (ECJ)

Verdict at: 2018-08-07

Case number: C|123/17