

SUMMARY

ECJ 9 February 2023, case C-402/21 (Staatssecretaris van Justitie en Veiligheid e.a. (Retrait du droit de séjour d'un travailleur turc)), Work and Residence Permit

Staatssecretaris van Justitie en Veiligheid – v – S, E, C, Dutch case

Summary

The GDPR does not preclude national legislation which enables DPO's to be dismissed only for just cause, even if not related to the performance of the DPO's task, insofar as such regulation does not undermine the GDPR's objectives. A DPO may experience a conflict of interest when other tasks or duties would result in him or her determining the objectives and methods of processing personal data.

Questions

Must Article 13 of Decision No 1/80 be interpreted as meaning that it may be relied on by Turkish nationals who hold the rights referred to in Article 6 or Article 7 of that decision? Must Article 14(1) of Decision No 1/80 be interpreted as meaning that Turkish nationals may rely on Article 13 of that decision in order to oppose a 'new restriction' – within the meaning of that provision and allowing the competent national authorities of a Member State to terminate their right of residence on the ground that, according to those authorities, they constitute a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society – from being applied to them. If so, the referring court seeks to ascertain whether and in what circumstances such a restriction may be justified under Article 14 of that decision?

Ruling

Article 13 of Decision No 1/80 of the Association Council of 19 September 1980 on the development of the Association between the European Economic Community and Turkey must be interpreted as meaning that it may be relied on by Turkish nationals who hold the rights referred to in Article 6 or Article 7 of that decision.

Article 14 of Decision No 1/80 must be interpreted as meaning that Turkish nationals who, according to the competent national authorities of the Member State concerned, constitute a genuine, present and sufficiently serious threat to one of the interests of society, may rely on Article 13 of that decision in order to oppose a 'new restriction', within the meaning of that provision, from being applied to them allowing those authorities to terminate their right of residence on grounds of public policy. Such a restriction may be justified under Article 14 of that decision in so far as it is suitable for securing the attainment of the objective of protecting public policy pursued and it does not go beyond what is necessary in order to attain it.

Creator: European Court of Justice (ECJ)

Verdict at: 2023-02-09

Case number: 402/21