



Press and Information

Court of Justice of the European Union

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Judgment in Case C-508/10
Commission v Netherlands

A Member State cannot impose excessive and disproportionate charges for the grant of residence permits to third-country nationals who are long-term residents and to members of their families

The amount of the charges imposed must not constitute an obstacle to the exercise of the rights conferred by European Union law

Directive 2003/109¹ provides that a Member State is to grant long-term resident status to third-country nationals who have resided legally and continuously within its territory for five years immediately prior to the submission of the application and who satisfy certain conditions. A long-term residence permit is to be granted to persons with that status. Directive 2003/109 also provides that Member States are to grant residence permits to third-country nationals who have already acquired that status in another Member State and to members of their families.

In the Netherlands, with the exception of Turkish nationals, third-country nationals who request residence permits pursuant to Directive 2003/109 are liable to pay a charge whose amount varies from €188 to €830.

The European Commission is of the view that those charges are disproportionate because, pursuant to the directive, they must be reasonable and fair and must not discourage third country nationals from exercising their right of residence. Therefore, the Commission brought an action against the Netherlands for failure to fulfil obligations.

The Court of Justice points out that no provision of the directive fixes the amount of the charges which Member States can impose for the issue of residence permits. However, whilst it is undisputed that Member States enjoy a margin of discretion in that respect, it is not unlimited.

Therefore, while it is open to Member States to make the issue of residence permits under Directive 2003/109 subject to the levying of charges, the level of those charges must not have either the object or the effect of creating an obstacle to the obtaining of the rights conferred by that directive, otherwise both the objective of integration and the spirit of that directive would be undermined.

In that respect, the Court of Justice states that the amounts of the charges claimed by the Netherlands vary within a range in which the lowest amount is about 7 times higher than the amount to be paid to obtain a national identity card. Even if Dutch citizens and third-country nationals and the members of their families are not in identical situations, such a variation illustrates the disproportionate nature of the charges claimed.

The Court of Justice holds that those excessive and disproportionate charges are liable to create an obstacle to the exercise of the rights conferred by the directive. As a consequence, by applying them to third-country nationals – those who seek long-term resident status in the Netherlands and those who have already acquired that status in another Member State – who seek authorisation for

¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44).

them and members of their family to be able to reside there, the Netherlands has failed to fulfil its obligations under the directive.

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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