



Press and Information

Court of Justice of the European Union

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Judgment in Case C-138/13

Naime Dogan v Bundesrepublik Deutschland

The requirement of a basic knowledge of the German language imposed by Germany as a condition for the issue of a visa for the purpose of reunification of spouses of Turkish nationals residing lawfully in its territory is contrary to EU law

That requirement introduced in 2007 is not compatible with the 'standstill' clause of the Association Agreement with Turkey

In the context of the family reunification of spouses who are nationals of third countries, Germany in principle, since 2007, has made the issue of a visa subject to the ability, for the spouse wishing to join the sponsor, to communicate in the German language at least at a basic level. That new condition seeks to prevent forced marriages and to promote integration.

Mrs Dogan, a Turkish national residing in Turkey, wishes to join her husband in Germany. The latter, also a Turkish national, has lived since 1998 in that country where he manages a limited liability company of which he is the majority shareholder and where he possesses an unlimited-term residence permit. In January 2012, the German embassy in Ankara refused again to grant Mrs Dogan a visa for the purpose of family reunification, on the ground that she does not possess the necessary linguistic knowledge.

Mrs Dogan therefore brought an action before the Verwaltungsgericht Berlin (Administrative Court, Berlin, Germany). That court asks the Court of Justice whether the language requirement imposed by Germany since 2007 is compatible with European Union law and, in particular, with the 'standstill' clause agreed at the beginning of the 1970s in the context of the Association Agreement with Turkey.¹ That clause prohibits the introduction of new restrictions on the freedom of establishment.²

In today's judgment, the Court answers that the 'standstill' clause precludes a national measure which, introduced after the entry into force of that clause in the Member State concerned, requires the spouse of a Turkish national residing in that State to prove beforehand the acquisition of basic knowledge of the official language of the State in question to be able to enter the territory of the latter for the purpose of family reunification.³

Such a language requirement makes family reunification more difficult by tightening, in relation to the rules applicable when the 'standstill' clause entered into force, the conditions of the first admission to the territory of the Member State concerned of the spouse of a Turkish national. Such legislation constitutes, within the meaning of that clause, a new restriction of the exercise of the freedom of establishment by Turkish nationals.

¹ That clause is included in the Additional Protocol signed on 23 November 1970 in Brussels and concluded, approved and confirmed on behalf of the European Economic Community by Council Regulation (EEC) No 2760/72 of 19 December 1972 concluding the additional protocol and the financial protocol signed on 23 November 1970 and annexed to the Agreement establishing an Association between the European Economic Community and Turkey and relating to the measures to be taken for their implementation (OJ 1973 C 113, p. 18).

² That prohibition is to be assessed by reference to the restrictions existing at the time of the entry into force of the clause for the Member State concerned (1 January 1973 in the case of Germany).

³ In the light of that answer, the Court considers that it is not necessary to examine the second question referred by the Verwaltungsgericht, namely whether Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ 2003 L 251, p. 12) precludes also the linguistic requirement at issue.

The Court notes that family reunification constitutes an essential way of making possible the family life of Turkish workers who belong to the labour force of the Member States, and contributes both to improving the quality of their stay and to their integration in those Member States.

The decision of a Turkish national, such as Mr Dogan, to establish himself in a Member State in order to exercise there a stable economic activity could be negatively affected where the legislation of that Member State makes family reunification difficult or impossible, so that that national could, as the case may be, find himself obliged to choose between his activity in the Member State concerned and his family life in Turkey.

Finally, although the introduction of a new restriction may be allowed in so far as it is justified by an overriding reason in the public interest, is suitable to achieve the legitimate objective pursued and does not go beyond what is necessary in order to attain it, the Court considers that such conditions are not satisfied in the present case.

In that regard, the Court holds that, on the assumption that the grounds set out by the German Government (namely the prevention of forced marriages and the promotion of integration) can constitute overriding reasons in the public interest, it remains the case that a national provision such as the **language requirement** at issue **goes beyond what is necessary** in order to attain the objective pursued, **in so far as the absence of evidence of sufficient linguistic knowledge automatically leads to the dismissal of the application for family reunification, without account being taken of the specific circumstances of each case.**

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 European Union law or the validity of a European Union 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.

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