



Press and Information

Court of Justice of the European Union

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Judgment in Case C-544/15

Sahar Fahimian v Bundesrepublik Deutschland

The national authorities may refuse, for reasons of public security, to grant to an Iranian national with a degree from a university subject to restrictive measures a visa for study in a sensitive field such as information technology security

While the national authorities enjoy a wide discretion as regards the existence of a threat to public security, the decision to refuse a visa must nevertheless state proper reasons

Ms Sahar Fahimian, of Iranian nationality, holds a Master of Science degree in the field of information technology awarded by Sharif University of Technology (Iran). That university is the subject of restrictive measures from the EU because of its support of the Iranian Government, in particular in the military field.

In 2012 Ms Fahimian received a grant from the Center for Advanced Security Research Darmstadt (CASED) of the Technische Universität Darmstadt (Technical University, Darmstadt, Germany), in order to pursue doctoral studies there. The subjects of her research project ranged from the security of mobile systems, including intrusion detection on smartphones, to security protocols. Ms Fahimian then applied to the German embassy in Teheran for a visa for study purposes. When she was refused the visa, she brought an action before the Verwaltungsgericht Berlin (Administrative Court, Berlin, Germany). The German Government justifies the refusal by the fear that the knowledge Ms Fahimian might acquire during her research could subsequently be misused in Iran (for purposes such as the collection of confidential information in western countries, internal repression, or more generally in connection with human rights violations).

In that context the Verwaltungsgericht Berlin asks the Court of Justice to interpret Directive 2004/114 on the conditions of admission of third country nationals for study purposes.¹ The aim of that directive is to promote Europe as a world centre of excellence for study and professional training, by promoting the mobility of students who are third country nationals and wish to travel to the EU for the purpose of education. However, for such a visa to be granted, the directive requires among other things that the applicant is not regarded as a threat to public security. The Verwaltungsgericht Berlin wishes to know whether, specifically, the national authorities enjoy a wide discretion (which could be subject only to limited judicial review) for determining whether the applicant represents a threat to public security, and whether they are entitled to refuse a visa in circumstances such as those of the present case.

By today's judgment, the Court replies that the national authorities enjoy a wide discretion in assessing the facts in order to ascertain whether, in the light of all the relevant elements of the situation of the third country national who is applying for a visa for study purposes, that person represents a threat, even if potential, to public security.

Moreover, the directive does not preclude a visa for study purposes from being refused to a third country national who (i) has a degree from a university which is the subject of EU restrictive measures (because of its large scale involvement with the Iranian Government in military or related fields) and (ii) plans to carry out research in a field that is sensitive for public security, if the elements available to the competent national authorities give reason to fear that the knowledge

¹ Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ 2004 L 375, p. 12).

acquired by that person during the research could subsequently be used for purposes contrary to public security. The Court observes in this respect that the collection of confidential information in western countries, internal repression or, more generally, human rights violations are purposes contrary to the maintenance of public security.

In those circumstances, the Verwaltungsgericht Berlin will have to ascertain whether the decision to refuse Ms Fahimian a visa is based on duly justified grounds and a sufficiently solid factual basis.

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

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