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Judgment of the Court in Joined Cases C-420/22 | NW and C-528/22 | PQ (Classified information)

Citizenship of the European Union: the withdrawal, on the basis of classified information, of the residence permit of a third-country national bringing up a child who is a Union citizen must be subject to an effective remedy

Two third-country nationals, of Turkish and Nigerian nationality respectively, have been residing legally in Hungary for several years. One of them is married to a Hungarian national, with whom he is bringing up their child of Hungarian nationality. The other lives with his Hungarian partner and their two children, who also have Hungarian nationality.

In 2020 and 2021, the Hungarian Constitutional Protection Office declared, by two non-reasoned opinions, that the presence of those persons in Hungary was contrary to national security. That office also categorised as confidential the information on which it relied in order to give those opinions.

Consequently, the national immigration police authority was required to withdraw its permanent residence card from the first person while ordering him to leave Hungarian territory. It also had to reject an application for a national settlement permit submitted by the second person. Neither that authority nor the persons concerned had access to the confidential information on which the initial opinions were based.

Hearing actions brought by each of the two persons against the respective decisions of the national immigration police authority, the court in Szeged (Hungary) asks the Court of Justice whether the Hungarian legislation is compatible with EU law.

First of all, the Court notes that the authorities of a Member State **may not withdraw a residence permit** from a family member of a Union citizen **or refuse to issue such a permit** to such a family member **without first examining whether there exists a relationship of dependency** between that family member and the Union citizen which would oblige the latter to leave the territory of the European Union in order to accompany his or her family member to a third country.

Next, the Court considers that EU law precludes legislation requiring national authorities to withdraw a residence permit from a family member of a Union citizen or to refuse to issue such a permit to such a family member on grounds of national security based on a non-reasoned opinion of a specialist authority, without those national authorities being able to examine carefully **the relevant individual circumstances and the proportionality** of their decision.

Lastly, **a national law is contrary to EU law where it prevents** a Union citizen's family member who, on the basis of confidential information, has had his or her residence permit withdrawn, or has been refused such a permit, from **being informed even of the substance of the grounds** forming the basis of those decisions and, in any event, from **using such information for the purposes of an administrative procedure or judicial proceedings**. However, EU law does not require that a court with jurisdiction in matters relating to residence should be able to verify the lawfulness of the categorisation of information or to authorise access to classified information.

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 EU law or the validity of an EU 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 and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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