



PRESS RELEASE No 107/26

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Judgment of the Court in Case C-26/25 | [Bukla] ¹

EU citizenship: a return decision based on classified information which is issued in respect of a third-country national raising a child who is a Union citizen must be capable of forming the subject of an effective remedy

PQ, a third-country national, entered Hungary lawfully in 2005 as a professional football player and has resided there ever since. He lives with his Hungarian partner and their two children, who also hold Hungarian nationality, and exercises parental responsibility jointly with his partner. In 2020, he applied for a national settlement permit on account of his family situation.

However, the Constitutional Protection Office considered, in a non-reasoned opinion based on confidential information, that his presence in Hungarian territory posed a threat to national security. The national immigration police authority, which was bound by that opinion, rejected his application for a settlement permit before adopting, on a proposal from the same office, a return decision together with a ten-year ban on entry and stay.

Neither the competent authorities nor the persons concerned had access to the confidential information on which the initial opinion and the proposals of the Constitutional Protection Office had been based.

Hearing PQ's actions, the Szeged Court (Hungary) first referred questions to the Court of Justice in the context of a previous case concerning the rejection of his application for a national settlement permit. In its judgment in that case, ² the Court of Justice held that procedures such as those involving PQ were contrary to EU law. In the present case, the Szeged High Court referred the matter to the Court of Justice once again, on the matter of the return procedure.

The Court notes that the procedural requirements relating to the examination of applications for residence permits are applicable, *mutatis mutandis*, to return procedures. Accordingly, the national authorities must ensure that a return decision in respect of a third-country national whose family ties with a Union citizen are known to them does not compel that Union citizen to leave the territory of the European Union. To that end, they must, in particular, **determine whether there is a relationship of dependency between the persons concerned.**

In that context, the Court considers that EU law precludes legislation which requires the national authorities to adopt a return decision in respect of a family member of a Union citizen on grounds of national security, solely on the basis of a binding non-reasoned opinion adopted by a special body, without **those authorities being able to examine carefully the relevant individual circumstances and the proportionality of their decision.**

Furthermore, **national legislation which prevents** a family member of a Union citizen, who has been served with a return decision together with an entry ban on the basis of confidential information, **from being informed of the essence of the grounds on which those decisions were based and from using such information for the purposes of administrative or judicial proceedings, is contrary to Union law.** Such legislation **is in breach of the principle of effectiveness, the general principle of sound administration and the right to an effective remedy.** The Court notes, in particular, that the intervention of a public prosecutor, who has access to the relevant confidential information but is not authorised to disclose it, in the interests of the third-country national concerned, is not sufficient to safeguard that person's rights. By

contrast, EU law does not require a court with jurisdiction over return matters to verify the lawfulness of the classification of information or to authorise access to classified information. It does, however, require that such a court be able to draw conclusions from the refusal of the competent authorities to disclose the grounds for their decision and the evidence on which it is based, and to examine the lawfulness of that decision on the basis solely of the grounds and evidence communicated to it.

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 and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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¹ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

² Judgment of 25 April 2024, Joined Cases *NW* and *PQ* (*Classified information*), [C-420/22 and C-528/22](#) (see also press release [No 72/24](#))