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Judgment of the Court in Case C-540/22 | Staatssecretaris van Justitie en Veiligheid (Posting of workers from third countries)

Posted Ukrainian workers: the Member State in which the works are carried out may impose an obligation to obtain a residence permit

A Slovak undertaking has posted Ukrainian workers to a Netherlands company in order to carry out work in the port of Rotterdam (Netherlands). The Ukrainians hold temporary residence permits issued by the Slovak authorities. In accordance with Netherlands law, the Ukrainians must also obtain Netherlands residence permits after the expiry of a 90-day period. In addition, fees are collected for each permit application. The Netherlands court, hearing complaints from the Ukrainian workers, has decided to refer questions to the Court of Justice for a preliminary ruling. It wishes to know whether Netherlands legislation is consistent with the freedom to provide services in the European Union.

In its judgment, the Court holds that the obligation, for service providers established in another Member State, to apply for a residence permit for each posted third-country worker, so that that worker may have a secure document, proving that the posting is lawful, constitutes **a measure appropriate for attaining the objective of increasing legal certainty for such workers**. That permit is proof of their right to reside in the host Member State. In addition, **the objective consisting in the need to check that the worker concerned does not represent a threat to public policy is also capable of justifying a restriction on the freedom to provide services**.

The Court finds that the fees payable for the grant of a residence permit to a third-country worker posted to one Member State by an undertaking established in another Member State are greater than those payable for the grant of a certificate of residence to a Union citizen. Concerning that fact, it recalls that the amount of those fees cannot be excessive or unreasonable and must approximately correspond to the administrative costs generated by the processing of an application for such a permit, which it is for the Netherlands court to determine.

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.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on ['Europe by Satellite'](#) ☎ (+32) 2 2964106.

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