



Press and Information

Court of Justice of the European Union  
**PRESS RELEASE No 120/14**  
Luxembourg, 10 September 2014

Judgment in Case C-491/13  
Mohamed Ali Ben Alaya v Germany

**Member States are obliged to admit to their territory third-country nationals who wish to stay for more than three months for study purposes, where they meet the conditions for admission exhaustively listed by EU law**

*They are therefore prohibited from introducing additional conditions for admission*

An EU directive<sup>1</sup> provides that third-country nationals who apply to be admitted for the purposes of study for more than three months must meet several general and specific conditions, including that of not posing a threat to public policy, public security or public health.

Mr Mohamed Ali Ben Alaya is a Tunisian national, born in 1989 in Germany. In 1995 he left Germany for Tunisia. After his baccalaureate in 2010, he enrolled at university in Tunisia to study information technology while taking steps to be able to study in Germany. On several occasions he was accepted to study in the mathematics faculty at a university in Dortmund. Expressing doubts as to Mr Ben Alaya's motivation for wishing to study in Germany (particularly in the light of the inadequacy of his grades, his weak knowledge of German and the fact that there was no connection between his proposed course of study and his intended career), the German authorities refused several applications for a student visa made by Mr Ben Alaya.

Hearing the case, the Verwaltungsgericht Berlin (Administrative Court of Berlin, Germany) asks the Court of Justice whether the German authorities have discretion to refuse to issue a student visa to Mr Ben Alaya although he meets all the conditions for admission laid down by the directive and does not pose a threat to public policy, public security or public health.

In its judgment delivered today, the Court considers that it follows from the directive that a Member State is obliged to admit to its territory a third-country national who wishes to stay for more than three months for study purposes, where that national meets the general and specific conditions exhaustively listed in the directive.

Moreover, the Court notes that the directive is intended to promote the mobility of students from third countries to the EU in order to promote Europe as a world centre of excellence for studies and vocational training. To allow a Member State to introduce additional conditions for admission would be contrary to that objective.

Although the directive allows the Member States to exercise a measure of discretion when considering applications for admission, the Court states that that discretion relates only to the conditions laid down by the directive and, within that context, to the assessment of the relevant facts (in particular as regards the existence of a threat to public policy, public security or public health).

In the present case, the documents before the Court suggest that Mr Ben Alaya meets the general and special conditions laid down by the directive and that none of the grounds based on the existence of a threat have been raised against him by the German authorities. The Court

---

<sup>1</sup> 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).

concludes that, subject to verification by the referring court, a residence permit ought to have been issued to Mr Ben Alaya.

---

**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 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.

---

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

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

Press contact: Christopher Fretwell ☎ (+352) 4303 3355