Official Journal
of the European Union

EN
C series

C/2025/5930

17.11.2025

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 17 July 2025 – DK v Minister van Asiel en Migratie

(Case C-469/25, Henssen [1])

(C/2025/5930)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellant: DK

Respondent: Minister van Asiel en Migratie

Questions referred

1. Must Article 24(2) of Regulation (EU) 2018/1861 [2] be interpreted as providing an exhaustive list of the situations in which a Member State may, pursuant to Article 24(1)(a) of Regulation (EU) 2018/1861, enter an alert in the SIS in respect of a foreign national for the purposes of refusing entry and stay?

2. If the answer to the first question is in the negative, must Article 24(1)(a) of Regulation (EU) 2018/1861 be interpreted as precluding a Member State from entering an alert in the SIS for the purpose of refusing entry and stay to a foreign national on the basis that that Member State has concluded that that foreign national constitutes a potential threat to public policy?

3. If the answer to the first question is in the negative, what aspects may play a role in interpreting the concept of 'threat to public policy' in Article 24(1)(a) of Regulation (EU) 2018/1861, given the broad discretion of the decision-making authority? Could factors such as whether or not there is suspicion of a criminal offence, whether fundamental rights such as freedom of expression are at stake, the social context in which the behaviour takes place and the proportionality of an alert in the SIS play a role in the interpretation of that concept?

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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] Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ 2018 L 312, p. 14).