

Action brought on 10 November 2008 — United Kingdom of Great Britain and Northern Ireland v Council of the European Union

(Case C-482/08)

(2009/C 32/24)

Language of the case: English

Parties

Applicant: United Kingdom of Great Britain and Northern Ireland (represented by: V. Jackson, Agent, T. Ward, Barrister)

Defendant: Council of the European Union

The applicant claims that the Court should:

- annul Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences ⁽¹⁾;
- determine, following the annulment of the VIS Police Access Decision, that its provisions should remain effective, except in so far as they have the effect of excluding the United Kingdom from participating in the application of the VIS Police Access Decision;
- order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

The United Kingdom was denied the right to take part in the adoption of the VIS Police Access Decision on the grounds that the Council considered that the measure constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part — namely the common visa policy. As a consequence, the Council considers that the United Kingdom is not bound by the Decision or subject to its application.

The United Kingdom contends that the Council was wrong to conclude that the Decision constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part. The VIS Police Access Decision is not a development of the common visa policy, but rather, a police cooperation measure. Neither the aim nor the content of the VIS Police Access Decision relate to the common visa policy. Rather it is entirely concerned with the sharing of information entered by visa authorities with designated law enforcement authorities and Europol for the purpose of prevention, detection and investigation of terrorist offences and other serious offences. This is reflected in the Council's choice of legal basis, namely Articles 30(1)(b) and 34(2)(c) TEU.

The annulment of the VIS Police Access Decision is accordingly sought on the grounds that the exclusion of the United Kingdom from its adoption entails the infringement of an essential procedural requirement and/or the infringement of the Treaty, within the meaning of Article 35(6) EU.

⁽¹⁾ OJ L 218, p. 129.

Appeal brought on 11 November 2008 by Claudia Gualtieri against the judgment of the Court of First Instance (Fourth Chamber) of 10 September 2008 in Case T-284/06 Gualtieri v Commission

(Case C-485/08 P)

(2009/C 32/25)

Language of the case: Italian

Parties

Appellant: Claudia Gualtieri (represented by: P. Gualtieri and M. Gualtieri, avvocati)

Other party to the proceedings: Commission of the European Communities

Form of order sought

- Dismiss all other claims, defences and pleas in law;
- make the appropriate findings and orders;
- uphold the pleas in law concerning the various questions dealt with and grant each of the forms of order relating to them, which are repeated in full, in any event, herein;
- state the principles of law that the relationship between seconded national experts ('SNE') and the Commission of the European Communities is one of employment comparable to that of temporary staff and that the corresponding allowances paid to SNE are in the nature of remuneration;
- declare that, under Community law, there should be equal pay for equal work and that, in any event, the payment to married persons of any remuneration different from that paid to single or co-habiting persons gives rise to discrimination against members of a family as defined by law;