

Judgment of the Court (Third Chamber) of 25 January 2018 (request for a preliminary ruling from the Szegedi Közigazgatási és Munkaügyi Bíróság, Hungary) — F v Bevándorlási és Állampolgársági Hivatal

(Case C-473/16) ⁽¹⁾

(Reference for a preliminary ruling — Charter of Fundamental Rights of the European Union — Article 7 — Respect for private and family life — Directive 2011/95/EU — Standards for granting refugee status or subsidiary protection status — Fear of persecution on grounds of sexual orientation — Article 4 — Assessment of facts and circumstances — Recourse to an expert's report — Psychological tests)

(2018/C 104/08)

Language of the case: Hungarian

Referring court

Szegedi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: F

Defendant: Bevándorlási és Állampolgársági Hivatal

Operative part of the judgment

1. Article 4 of Directive 2011/95/EC of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, must be interpreted as meaning that it does not preclude the authority responsible for examining applications for international protection, or, where an action has been brought against a decision of that authority, the courts or tribunals seised, from ordering that an expert's report be obtained in the context of the assessment of the facts and circumstances relating to the declared sexual orientation of an applicant, provided that the procedures for such a report are consistent with the fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union, that that authority and those courts or tribunals do not base their decision solely on the conclusions of the expert's report and that they are not bound by those conclusions when assessing the applicant's statements relating to his sexual orientation.
2. Article 4 of Directive 2011/95, read in the light of Article 7 of the Charter of Fundamental Rights, must be interpreted as precluding the preparation and use, in order to assess the veracity of a claim made by an applicant for international protection concerning his sexual orientation, of a psychologist's expert report, such as that at issue in the main proceedings, the purpose of which is, on the basis of projective personality tests, to provide an indication of the sexual orientation of that applicant.

⁽¹⁾ OJ C 419, 14.11.2016.