

### Operative part of the judgment

Articles 26 and 27 of Regulation No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, as amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014, must be interpreted as not precluding the imposition of a charge, such as that at issue in the main proceedings, on retail food outlets only, where the revenue from that charge is not used specifically to finance official controls that have been caused by, or that are for the benefit of, those chargeable persons.

<sup>(1)</sup> OJ C 6, 9.1.2017.

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### Judgment of the Court (Grand Chamber) of 26 July 2017 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Proceedings brought by Khadija Jafari, Zainab Jafari

(Case C-646/16) <sup>(1)</sup>

*(Reference for a preliminary ruling — Regulation (EU) No 604/2013 — Determination of the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national — Arrival of an unusually large number of third-country nationals seeking international protection — Organisation of border crossing by the authorities of one Member State for the purpose of transit to another Member State — Entry authorised by way of derogation on humanitarian grounds — Article 2(m) — Definition of a ‘visa’ — Article 12 — Issuing of a visa — Article 13 — Irregular crossing of an external border)*

(2017/C 309/21)

Language of the case: German

### Referring court

Verwaltungsgerichtshof

### Parties to the main proceedings

Khadija Jafari, Zainab Jafari

### Operative part of the judgment

1. Article 12 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, read in conjunction with Article 2(m) of that regulation, must be interpreted as meaning that the fact that the authorities of one Member State, faced with the arrival of an unusually large number of third-country nationals seeking transit through that Member State in order to lodge an application for international protection in another Member State, tolerate the entry into its territory of such nationals who do not fulfil the entry conditions generally imposed in the first Member State, is not tantamount to the issuing of a ‘visa’ within the meaning of Article 12 of Regulation No 604/2013.
2. Article 13(1) of Regulation No 604/2013 must be interpreted as meaning that a third-country national whose entry was tolerated by the authorities of one Member State faced with the arrival of an unusually large number of third-country nationals seeking transit through that Member State in order to lodge an application for international protection in another Member State, without fulfilling the entry conditions generally imposed in the first Member State, must be regarded as having ‘irregularly crossed’ the border of the first Member State within the meaning of that provision.

<sup>(1)</sup> OJ C 53, 20.2.2017.