

Judgment of the Court (Fourth Chamber) of 20 October 2022 (request for a preliminary ruling from the Rechtbank Den Haag — Netherlands) — O.T.E. v Staatssecretaris van Justitie en Veiligheid

(Case C-66/21) ⁽¹⁾

(Reference for a preliminary ruling — Border controls, asylum and immigration — Asylum policy — Residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate irregular immigration, who cooperate with the competent authorities — Directive 2004/81/EC — Article 6 — Scope — Third-country national claiming to be the victim of an offence related to the trafficking in human beings — Entitlement to the reflection period provided for in Article 6(1) of that directive — Prohibition on enforcing an expulsion measure — Definition — Scope — Calculation of that reflection period — Regulation (EU) No 604/2013 — 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 — Transfer to the Member State responsible for examining that application for international protection)

(2022/C 472/09)

Language of the case: Dutch

Referring court

Rechtbank Den Haag

Parties to the main proceedings

Applicant: O.T.E.

Defendant: Staatssecretaris van Justitie en Veiligheid

Operative part of the judgment

1. Article 2 of Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities,

must be interpreted as meaning that:

the measure by which a third-country national is transferred from the territory of one Member State to that of another Member State, pursuant to 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, falls within the scope of the concept of 'expulsion order'.

2. Article 6(2) of Directive 2004/81

must be interpreted as

precluding the enforcement of a decision to transfer a third-country national, taken pursuant to Regulation No 604/2013, during the reflection period guaranteed in Article 6 (1) of that directive, but as not precluding the adoption of such a decision, or of measures preparatory to the enforcement of that decision, provided that those preparatory measures do not deprive such a reflection period of its effectiveness, which is a matter for the referring court to determine.

⁽¹⁾ OJ C 163, 3.5.2021.