



C/2024/918

29.1.2024

**Judgment of the Court (Grand Chamber) of 5 December 2023 (request for a preliminary ruling from the *Nederlandstalige rechtbank van eerste aanleg Brussel* — Belgium) — *Nordic Info BV v Belgische Staat***

(Case C-128/22, <sup>(1)</sup> NORDIC INFO)

*(Reference for a preliminary ruling — Directive 2004/38/EC — Articles 27 and 29 — Measures restricting the free movement of Union citizens on public health grounds — Measures of general application — National legislation providing for a ban on leaving the national territory in order to engage in non-essential travel to Member States classified as high-risk zones in the context of the COVID-19 pandemic and an obligation for every traveller entering the national territory from one of those Member States to undergo screening tests and to observe quarantine — Schengen Borders Code — Article 23 — Exercise of police powers in the field of public health — Equivalence with the exercise of border checks — Article 25 — Possibility of reintroducing border controls at internal borders in the context of the COVID-19 pandemic — Controls carried out in a Member State as part of measures prohibiting the crossing of borders for the purpose of engaging in non-essential travel from or to States in the Schengen area classified as high-risk zones in the context of the COVID-19 pandemic)*

(C/2024/918)

Language of the case: Dutch

**Referring court**

Nederlandstalige rechtbank van eerste aanleg Brussel

**Parties to the main proceedings**

*Applicant:* Nordic Info BV

*Defendant:* Belgische Staat

**Operative part of the judgment**

1. Articles 27 and 29 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, read in conjunction with Articles 4 and 5 thereof,

must be interpreted as not precluding legislation of general application of a Member State which, on public health grounds connected with combating the COVID-19 pandemic, (i) prohibits Union citizens and their family members, whatever their nationality, from engaging in non-essential travel from that Member State to other Member States classified by it as high-risk zones on the basis of the restrictive health measures or the epidemiological situation in those other Member States, and (ii) requires Union citizens who are not nationals of that Member State to undergo screening tests and to observe quarantine when entering the territory of that Member State from one of those other Member States, provided that that national legislation complies with all the conditions and safeguards referred to in Articles 30 to 32 of that directive, the fundamental rights and principles enshrined in the Charter of Fundamental Rights of the European Union, in particular the principle of the prohibition of discrimination and the principle of proportionality.

2. Articles 22, 23 and 25 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), as amended by Regulation (EU) 2017/2225 of the European Parliament and of the Council of 30 November 2017,

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<sup>(1)</sup> OJ C 213, 30.5.2022.

must be interpreted as not precluding legislation of a Member State which, on public health grounds connected with combating the COVID-19 pandemic, prohibits, under the control of the competent authorities and on pain of a penalty, the crossing of the internal borders of that Member State in order to engage in non-essential travel from or to States in the Schengen area classified as high-risk zones, provided that those control measures fall within the exercise of police powers which is not to have an effect equivalent to border checks, within the meaning of Article 23(a) of that code, or that, where those measures constitute border controls at internal borders, that Member State has complied with the conditions referred to in Articles 25 to 28 of that code for the temporary reintroduction of such controls, given that the threat posed by such a pandemic corresponds to a serious threat to public policy or internal security within the meaning of Article 25(1) of that code.

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