



Humanitarian Visa

Findings of the Court of Justice of the European Union

The Court noted that it is apparent from the order for reference and from the material in the file before the Court that the applicants in the main proceedings submitted applications for visas on humanitarian grounds, based on Article 25 of the Visa Code, at the Belgian embassy in Lebanon, with a view to applying for asylum in Belgium immediately upon their arrival in that Member State and, thereafter, to being granted a residence permit with a period of validity not limited to 90 days. **The Court stated in accordance with Article 1 of the Visa Code, such applications, even if formally submitted on the basis of Article 25 of that code, fall outside the scope of that code, in particular Article 25(1)(a) thereof, the interpretation of which is sought by the referring court in connection with the concept of ‘international obligations’ mentioned in that provision.**

In addition, since no measure has been adopted, to date, by the EU legislature on the basis of Article 79(2)(a) TFEU, with regard to the conditions governing the issue by Member States of long-term visas and residence permits to third-country nationals on humanitarian grounds, **the applications at issue in the main proceedings fall solely within the scope of national law. Subsequently, since the situation at issue in the main proceedings is not, therefore, governed by EU law, the provisions of the Charter, in particular, Articles 4 and 18 thereof, referred to in the questions of the referring court, do not apply to it.**

The Court concludes that to conclude otherwise would allow third-country nationals to lodge applications for visas on the basis of the Visa Code in order to obtain international protection in the Member State of their choice, which would undermine the general structure of the system established by Regulation No 604/2013. MS remain, however, competent to issue humanitarian visas if national law so requires.

Follow-Up Question

- In your national context, how would you deal with such situations?

See: *X and X v État belge*, Case C-638/16 PPU, Judgement of 07.03.2017.



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