JUDGMENT OF THE COURT
26 FEBRUARY 1975 [1]

Carmelo Angelo Bonsignore v Oberstadtdirektor der Stadt Köln (preliminary ruling requested by the Verwaltungsgericht Köln

'Public policy and public security'

Case 67/74

Summary

Free movement of persons — Non-discrimination — Exceptions to be strictly construed — Offence against national public policy — National of a Member State — Deportation — Personal conduct — Measure of a general preventive nature — Prohibition

(EEC Treaty, Articles 48 and 56; Council Directive No 64/221/EEC, Articles 3 (1) and (2))

Directive No 64/221 seeks to coordinate the measures justified on grounds of public policy and for the maintenance of public security envisaged by Articles 48 and 56 of the Treaty, in order to reconcile the application of these measures with the basic principle of the free movement of persons within the Community and the elimination of all discrimination, in the application of the Treaty, between the nationals of the State in question and those of the other Member States.

As departures from the rules concerning the free movement of persons constitute exceptions which must be strictly construed, the concept of 'personal conduct' expresses the requirement that a deportation order may only be made for breaches of the peace which might be committed by the individual affected.

It follows from this that Article 3 (1) and (2) of Directive No 64/221/EEC prevents the deportation of a national of a Member State if such deportation is ordered for the purpose of deterring other aliens, that is, if it is based on reasons of a 'general preventive nature'.

In Case 67/74

Reference to the Court under Article 177 of the EEC Treaty by the Verwaltungsgericht Köln (Cologne Administrative Court) for a preliminary ruling in the action pending before that court between

1 — Language of the Case: German.

CARMELO ANGELO BONSIGNORE, chemical worker, residing in Cologne,

and

THE OBERSTADTDIREKTOR (Chief Administrative Officer) OF THE CITY OF COLOGNE,

in the presence of the representative of the public interest before the Verwaltungsgericht Köln,

on the interpretation of Article 3 (1) and (2) of Council Directive No 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health,

THE COURT

composed of: R. Lecourt, President, J. Mertens de Wilmars and A. J. Mackenzie Stuart, Presidents of Chambers, A. M. Donner, R. Monaco, P. Pescatore (Rapporteur), H. Kutscher, M. Sørensen and A. O'Keeffe, Judges,

Advocate-General: H. Mayras
Registrar: A. Van Houtte

gives the following

JUDGMENT

Facts

The facts of the case, the procedure and the observations submitted under Article 20 of the Protocol on the Statute of the Court of Justice of the EEC may be summarized as follows:

I — Facts and procedure

Carmelo Angelo Bonsignore, an Italian national, arrived in the Federal Republic of Germany in October 1968, at the age of 18 years, to take up employment as a chemical worker in Cologne. His residence permit, which was issued on 5 November 1968, was renewed on 8 August 1969 by the Oberstadtdirektor (Chief Administrative Officer) of Cologne for a period of five years.

In May 1971 Mr Bonsignore bought from an unknown person a 6.35 calibre pistol without being in possession of a firearms permit.

On 30 May 1971, while handling the pistol, he fatally injured his younger brother Angelo.

On 20 October 1971 the Amtsgericht, Cologne, sitting as a Schöffengericht (that is, with the assistance of lay judges) sentenced Mr Bonsignore to a fine for an offence against the Firearms Law and found him guilty of causing death by negligence, but ruled that no punishment ought to be imposed on this count.

Following his conviction the Oberstadtdirektor of Cologne decided to deport Mr. Bonsignore from the territory of the Federal Republic of Germany and ordered the immediate execution of this measure by Ordnungsverfügung (administrative decree) of 15 September 1972, pursuant to Article 10 (1) No 2 of the Ausländergesetz (Aliens Law) of 28 April 1965, in conjunction with Article 12 of the Gesetz über Einreise und Aufenthalt von Staatsangehörigen der Mitgliedstaaten der Europäischen Wirtschaftsgemeinschaft (Law on the entry and residence of nationals of Member States of the European Economic Community) of 22 July 1969.

The objection put forward on 4 October 1972 by Mr Bonsignore was dismissed by decision of the Oberstadtdirektor of 10 October.

On an application by Mr Bonsignore, lodged on 26 October 1972, the Verwaltungsgericht Köln stayed the deportation order by order of 10 November 1972.

An extra-judicial appeal brought by Mr Bonsignore against the deportation order was dismissed by the Regierungspräsident (Chief District Administrative Officer) of Cologne by decision of 26 April 1973.

Mr Bonsignore appealed against this decision on 23 May 1973 to the Verwaltungsgericht Köln.

This court found, in particular, that German administrative case-law is divided over the interpretation of the principal national legislative provisions concerning limitations of freedom of movement within the Federal Republic, in particular over Article 12 of the Law of 22 July 1969 on the entry and residence of nationals of Member States of the European Economic Community. Paragraph (1) of this provision provides that deportation or expulsion can be ordered only for reasons of public security or public policy or if the presence of the party concerned is such as to prejudice certain other important interests of the Federal Republic; paragraph (3) of the same provision provides that the decisions or measures set out in paragraph (1) may be adopted only if they are justified on grounds of the personal conduct of the foreigner in question and, according to paragraph (4), the existence of a criminal conviction cannot in itself constitute grounds for the taking of such decisions or measures. Thus, Article 12 raises the question whether a national of a Member State of the EEC may be deported from the territory of the Federal Republic of Germany for reasons of a general preventive nature. There can be no doubt that this question turns on an interpretation of internal law; as, however, such law must be interpreted in accordance with Community law and its objectives, a final reply presupposes an interpretation of Article 3 (1) and (2) of Council Directive No 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health (OJ, p. 850) according to which: 'Measures taken on grounds of public policy or public security shall be based exclusively on the personal conduct of the individual concerned' and: 'Previous criminal convictions shall not in themselves constitute grounds for the taking of such measures'.

By order of 30 July 1974, therefore, the Verwaltungsgericht Köln (Fifth Senate) decided, in accordance with Article 177 of the EEC Treaty, to stay proceedings until the Court of Justice had given a preliminary ruling on the following questions:

'1. Is Article 3 (1) and (2) of Council Directive No 64/221 of the European Economic Community of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health, to be interpreted as excluding the deportation of a national of a Member State of the European Economic Community by the State authoritiy of another Member State for the purpose of deterring other foreign nationals from committing such criminal offences as those with which the person deported was charged, or similar offences or other infringements of public security or public policy, that is, for reasons of a general preventive nature?

2. Does the said provision mean that the expulsion of a national of a Member State of the EEC is possible only when there are clear indications that that EEC national, who has been convicted of an offence, will commit further offences or will in some other way disregard public security or public policy of a Member State of the EEC, that is, for reasons of a special preventive nature?'

The order of the Verwaltungsgericht Köln was lodged at the Court Registry on 14 September 1974.

In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, written observations were submitted on 28 October 1974 by the Oberstadtdirektor of the City of Cologne the defendant in the main action; on 18 November by the Commission of the European Communities; on 27 November by the representative of the public interest before the Verwaltungsgericht Köln, the intervener in the main action; and on 28 November by the Government of the Italian Republic.

Upon hearing the report of the Judge-Rapporteur and the opinion of the Advocate-General, the Court decided to open the oral procedure without any preparatory inquiry.

II — Written observations submitted to the Court

The Oberstadtdirektor of the City of Cologne, the defendant in the main action, considers that the distinction drawn by the Verwaltungsgericht Köln between reasons of a 'special preventive nature', which are characterized by clear indications that the foreigner convicted of an offence will commit further offences, and reasons of a 'general preventive nature', which justify the deportation of a foreigner for the purpose of deterring other foreign nationals from committing such or similar criminal offences, is irrelevant: Article 3 (1) of Directive No 64/221 refers both to the 'personal conduct' of the foreigner and to 'measures taken on grounds of public policy or public security'.

The concept 'personal conduct' poses no problem: a foreigner convicted of an offence always supplies the reason for his deportation by his own personal conduct.

By its reference to public policy and public security the Directive alludes to the concept of danger. The task facing the administrators of the police and security services is not only to put an end to existing disturbances but also and primarily to provide a preventive defence against dangers threatening public security and public policy; such a 'danger' may consist in the possibility of harm which the competent authorities, on the basis of their experience, consider likely to occur. In connexion with this central concept of danger the German legislation on aliens stresses certain categories of reprehensible conduct, including offences against the firearms legislation, which are regarded as of particular danger to the peaceful, secure

coexistence of Germans and foreigners. Ministerial directives expressly recommend that the 'Ausländerbehörde' (Aliens Authority) be especially strict in certain cases. These directives consider that foreign nationals who are guilty of certain offences constitute a particularly serious threat to the peaceful coexistence of a large population which is concentrated — in the large towns — in a restricted area. The authorities are justified in taking account of the general danger represented by certain foreign nationals convicted of reprehensible acts which are of particular danger to the population, such as the prohibited use of firearms, and by the threat which they pose to public security and public policy. The authorities must be entitled to deport them.

In certain circumstances the deportation of a foreigner has the subsidiary and desirable consequence that news of such a measure spreads and has an unquestionable deterrent effect.

The representative of the public interest before the Verwaltungsgericht Köln, the intervener in the main action, observes that to the extent to which the law on the entry and residence of nationals of Member States of the EEC places such nationals in a more favourable legal situation as regards residence in the Federal Republic than that in which the Aliens Law places foreigners in general, the former must prevail.

In this instance the proposed deportation of Mr Bonsignore has been ordered by reason of his unlawful acquisition and possession of a firearm, in pursuance of the combined provisions of Article 10 (1) No 2 of the Aliens Law and of Article 12 of the Law on the entry and residence of nationals of Member States of the EEC. He has been convicted of an offence; moreover, the unlawful acquisition and possession of firearms is a threat to public security and public order and, for this reason, justifies a deportation order under Article 10 (1) No 11. In fact, it is reasonable to regard as 'important interests of the Federal Republic of Germany' within the meaning of this provision an interest in maintaining the respect of foreign workers for the German system of law and order. The integration of foreign workers into the way of life of the Federal Republic involves instilling an awareness of the importance of public security and order, in particular in large industrial centres. The unlawful possession of and traffic in arms must be regarded as an attack on extremely important interests of the Federal Republic which justifies deportation, even though none of the other circumstances set out in Article 10 (1) of the Aliens Law is present.

As regards the Law on the entry and residence of nationals of Member States of the EEC, it must be noted that Article 12 (1) provides that nationals of Member States may be deported only for reasons of public security or policy or if their presence is such as to prejudice other important interests of the Federal Republic of Germany. These two hypotheses combined correspond to the concept of public policy developed in legal systems based on Roman law, and embody all provisions drawn up in the general interest. They constitute the implementation of Article 48 (3) of the Treaty, according to which restrictions on freedom of movement for workers may be imposed on grounds of public policy.

Thus, the provisions of the Aliens Law and the Law on the entry and residence of nationals of Member States of the EEC converge.

The more favourable system governing the latter arises, in this instance, from Article 12 (3) and (4) of the Law of 1969. In particular, according to the first sentence of Article 12 (3) deportation can be ordered only on the basis of the personal conduct of the foreigner concerned; Mr Bonsignore invited deportation by infringing the German firearms legislation, that is, through his personal conduct. Moreover, Article 12 (3) of the Law on the entry and residence of nationals of Member States

of the EEC must be interpreted in the light of Directive No 64/221, in particular of Article 3 (1) thereof, according to which 'Measures taken on grounds of public policy or of public security shall be based exclusively on the personal conduct of the individual concerned'. This provision in no way prohibits restriction of the basic right of freedom of movement when such restriction is necessary as a collective deterrent, for reasons of a general preventive nature; it means that measures which are taken against a person are lawful only if that person has offended against public policy by the sole fact of his personal conduct, not that the sole purpose of measures adopted for reasons of public policy must be to act as an individual deterrent on the person concerned. In view of the importance of general prevention within the context of the maintenance of order, the directive had, *ex hypothesi,* to set out its prohibition in clear terms.

The purpose of the directive is to prohibit any abuse of measures to maintain order which are authorized, in a general way, by Article 48 (3) of the Treaty. In particular, the purpose of Article 3 (1) is to protect a national who is not himself responsible for a disturbance of law and order. When, in a given case, measures of a special preventive nature or of a general preventive nature are objectively justified, that is, when they are capable of fulfilling their purpose of acting as a deterrent, such measures are lawful according to the directive, as being measures taken on grounds of public policy.

Moreover, an interpretation of Article 3 (1) of the directive in favour of the legality of deportation on grounds of a special preventive nature is not incompatible either with Article 48 (3) of the Treaty or with other provisions of Community law.

According to the clear wording of Article 48 (3) of the Treaty the basic right of freedom of movement is subject to 'limitations justified on grounds of public policy, public security or public health'. The Community is obliged to acknowledge this right only if it does not adversely affect public policy; the consequences of an 'undue' freedom of movement are contrary to the purpose sought.

Deportation on grounds of a general preventive nature is indispensable to the integration of foreign workers into the existing order. During the present first stage of attempts at integration the maintenance of order, the quickest possible integration of foreign workers and the corresponding achievement of the peaceful freedom of movement of such workers all require that, in such a case, deportation be ordered for purposes of general prevention.

Article 3 (1) of Directive No 64/221 must therefore be interpreted to mean that a deportation order which is objectively justified by reasons of a general preventive nature and which is intended to reinforce public policy is compatible with Community law.

The Government of the Italian Republic considers that Article 3 of Directive No 64/221 represents the Council's desire to set strict limits on the concepts public policy and public security, which justify the adoption of special measures in respect of Community workers. Its first paragraph lays down that special measures shall be based exclusively on the personal conduct of the individual concerned, while the second paragraph expressly states that previous criminal convictions shall not in themselves constitute sufficient and adequate grounds for adopting a special measure in relation to a Community worker. According to paragraph (1), special measures may not be justified by circumstances or assessments which are not based on the personal conduct of the individual concerned, while according to paragraph (2), an aspect of public policy which may justify special measures must be assessed in a precise and immediate

manner; a general reference to an assessment made by a judge in criminal proceedings when making a decision to convict cannot justify such measures.

Thus, special measures against non-national Community workers can be adopted only for reasons of a special preventive nature and not those of a general preventive nature.

The very text of the provision shows that a close and special correlation must exist between the expected threat to public policy and the conduct of the worker concerned.

Although the measure could also be adopted on the basis of broad objectives of a general preventive nature, the conduct of the individual concerned in this case is not the cause of the expected threat to public policy, but merely constitutes a non-specific opportunity to introduce such a measure. Article 3 (1) of the directive requires the existence of a chain of causation between the conduct of workers and the feared threat to public policy. To allow a restrictive measure to be adopted on the basis of a mere general danger to order, in the absence of any expectation of future reprehensible conduct on the part of the worker concerned, amounts to penalizing a non-national Community worker, not on the grounds of or in expectation of specific conduct on his part, but by reason of an expectation of specific conduct on the part of other persons. This result is both contrary to principles of justice and equity and incompatible with the very foundations of the Community legal system, in particular with the principle of freedom of movement for Community Workers; it might lead to a real discrimination based on nationality.

The fact that Article 3 (1) of the directive is intended to limit the adoption of special measures taken on grounds of public policy against non-national Community workers solely to those which are justified by objectives of special prevention is confirmed by Article 3 (2) which expressly excludes the adoption of special measures based solely on the existence of a criminal conviction. Although the directive does not even acknowledge the existence of a criminal conviction to be an appropriate factor on which to base a special measure, it must be concluded *a fortiori* that the power to adopt special measures merely for the purpose of general prevention is excluded, as such measures must necessarily be based not on a concrete assessment of the conduct of workers, but on an abstract and predetermined assessment of factors which are still less objective and less easily verified than that of the existence of a criminal conviction.

The Commission of the European Communities recalls that member States are entitled to limit the freedom of movement granted by the Treaty to nationals of the countries of the EEC 'on grounds of public policy, public security or public health'. The rules laid down in this connexion in Article 3 of Directive No 64/221 are thus of an exceptional nature and, in accordance with general principles, they must be interpreted restrictively. This text is perfectly clear: by providing that these measures 'shall be based exclusively on the personal conduct of the individual concerned' it lays down that each case must be examined individually. This consideration also applies to the conditions necessary for the taking of measures of public policy and public security by Member States in relation to nationals of other Member States. In this connexion the discretionary power of the States is also limited by Article 3 (2) of the directive, according to which previous criminal convictions cannot 'in themselves' justify such measures.

The need to examine each case individually is also valid as regards the objective sought by such measures.

Taking into account the text of the directive, the desire to deter other foreigners from committing such or similar offences in the future must therefore be irrelevant.

Although, *ex hypothesi,* the text of Article 3 (1) might give rise to differing interpretations, the fundamental requirement of a restrictive interpretation demands that, if doubt arises, the deterrent effect is not to be regarded as of greater importance.

This interpretation corresponds to the spirit and objective of the directive. The consequence of the right of freedom of movement is that nationals of Member States of the EEC are entitled, under the conditions specified by that directive, to reside in the territory of the other Member States. These States may of course make use of the reservation concerning 'measures taken on grounds of public policy and public security', but the discretionary powers retained by Member States in this field — even if a Community bias is correctly put on the concepts public policy, public security and public health — must be limited by Article 3 (1) of the directive. This limitation has no meaning unless it places nationals of the countries of the EEC in a more favourable situation than that of other foreign nationals, which would no longer be the case if considerations of a general preventive nature could constitute sufficient grounds on which to order deportation.

It would therefore be appropriate to reply as follows to the questions referred by the Verwaltungsgericht Köln:

Article 3 of Directive No 64/221 of the Council must be interpreted to mean that the deportation of a national of a Member State of the EEC who has been convicted in criminal proceedings cannot be ordered for the purpose of deterring other foreign nationals from committing such or similar offences (concept of general prevention) but only when, after a thorough consideration of all the facts of the case, it may be feared that the foreigner in question will again offend against public policy and public security (concept of special prevention).

III — Oral procedure

The Oberstadtdirektor of the City of Cologne, represented by Trutz von Wolff, Oberrechtsrat, the Government of the Italian Republic, represented by Giorgio Zagari, Deputy State Advocate-General and the Commission of the European Communities, represented by its Legal Adviser, Rolf Wägenbaur, submitted oral observations at the hearing on 21 January 1975.

The Advocate-General delivered his opinion at the hearing on 19 February 1975.

Law

1 By order of 30 July 1974, received at the Court Registry on 14 September 1974, the Verwaltungsgericht Köln referred to the Court, under Article 177 of the EEC Treaty, two questions concerning the interpretation of Article 3 (1) and (2) of Council Directive No 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public securtiy or public health (OJ p. 850).

2 These questions arose within the context of an appeal brought by an Italian national residing in the Federal Republic of Germany against a decision to deport him taken by the Ausländerbehörde (Aliens Authority) following his conviction for an offence against the Firearms Law and for causing death by negligence.

The order containing the reference shows that the plaintiff in the main action who was unlawfully in possession of a firearm, accidentally caused the death of his brother by his careless handling of the firearm concerned.

For this reason the relevant criminal court sentenced him to a fine for an offence against the firearms legislation.

The court also found him guilty of causing death by negligence but imposed no punishment on this count, considering that no purpose would be served thereby in view of the circumstances, notably the mental suffering caused to the individual concerned as a result of the consequences of his carelessness.

3 Following the criminal conviction the 'Ausländerbehörde' (Aliens Authority) ordered the individual concerned to be deported in accordance with the Ausländergesetz (Aliens Law) of 28 April 1965 (Bundesgesetzblatt, Teil I, p. 353), in conjunction with the Gesetz über Einreise und Aufenthalt von Staatsangehörigen der Mitgliedstaaten der Europäischen Wirtschaftsgemeinschaft (Law on the entry and residence of nationals of Member States of the European Economic Community) of 22 July 1969 (Bundesgesetzblatt, Teil I, p. 927), which was adopted in order to implement Directive No 64/221 in the Federal Republic of Germany.

4 The Verwaltungsgericht, which heard the appeal against this decision, considered that by reason of the particular circumstances of the case the deportation could not be justified on grounds of a 'special preventive nature' based either on the facts which had given rise to the criminal conviction or on the present and foreseeable conduct of the plaintiff in the main action.

The Verwaltungsgericht considered that the only possible justification for the measure adopted would be the reasons of a 'general preventive nature', which were emphasized both by the Ausländerbehörde and by the representative of the public interest and were based on the deterrent effect which the deportation of an alien found in illegal possession of a firearm would have in immigrant circles having regard to the resurgence of violence in the large urban centres.

As it is required to apply legislative provisions adopted for the implementation of a Community Directive — in particular Article 12 of the Law of 22 July 1969 — the Verwaltungsgericht takes the view that it is necessary to request the Court to give an interpretation of the relevant provisions of that Directive, in order to ensure that national law is applied in accordance with the requirements of Community law.

In these circumstances the Verwaltungsgericht has referred to the Court the following two questions:

'1. Is Article 3 (1) and (2) of Directive No 64/221/EEC of the Council of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health, to be interpreted as excluding the deportation of a national of a Member State of the European Economic Community by the State authority of another Member State for the purpose of deterring other foreign nationals from committing such criminal offences as those with which the person deported was charged or similar offences or other infringements of public security or public policy, that is, for reasons of a general preventive nature?

2. Does the said provision mean that the deportation of a national of a Member State of the EEC is possible only when there are clear indications that the EEC national, who has been convicted of an offence, will commit further offences or will in some other way disregard public security or public policy of a Member State of the EEC, that is, for reasons of a special preventive nature?'

5 According to Article 3 (1) and (2) of Directive No 64/221, 'Measures taken on grounds of public policy or of public security shall be based exclusively on the personal conduct of the individual concerned' and 'Previous criminal convictions shall not in themselves constitute grounds for the taking of such measures'.

These provisions must be interpreted in the light of the objectives of the directive which seeks in particular to coordinate the measures justified on grounds of public policy and for the maintenance of public security envisaged by Articles 48 and 56 of the Treaty, in order to reconcile the application of these measures with the basic principle of the free movement of persons within the Community and the elimination of all discrimination, in the application of the Treaty, between the nationals of the State in question and those of the other Member States.

6 With this in view, Article 3 of the directive provides that measures adopted on grounds of public policy and for the maintenance of public security against the nationals of Member States of the Community cannot be justified on grounds extraneous to the individual case, as is shown in particular by the requirement set out in paragraph (1) that 'only' the 'personal conduct' of those affected by the measures is to be regarded as determinative.

As departures from the rules concerning the free movement of persons constitute exceptions which must be strictly construed, the concept of 'personal conduct' expresses the requirement that a deportation order may only be made for breaches of the peace and public security which might be committed by the individual affected.

7 The reply to the questions referred should therefore be that Article 3 (1) and (2) of Directive No 64/221 prevents the deportation of a national of a Member State if such deportation is ordered for the purpose of deterring other aliens, that is, if it is based, in the words of the national court, on reasons of a 'general preventive nature'.

Costs

8 The costs incurred by the Government of the Italian Republic and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable and as these proceedings are, in so far as the parties to the main action are concerned, in the nature of a step in the action pending before the Verwaltungsgericht Köln, the decision as to costs is a matter for that court.

On those grounds,

THE COURT

in answer to the questions referred to it by the Verwaltungsgericht Köln by order of 30 July 1974, hereby rules:

Article 3 (1) and (2) of Council Directive No 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health prevents the deportation of a national of a Member State if such deportation is ordered for the purpose of deterring other aliens.

Lecourt Mertens de Wilmars Mackenzie Stuart Donner Monaco
Pescatore Kutscher Sørensen O'Keeffe

Delivered in open court in Luxembourg on 26 February 1975.

A. Van Houtte
Registrar

R. Lecourt
President

OPINION OF MR ADVOCATE-GENERAL MAYRAS DELIVERED ON 19 FEBRUARY 1975 [1]

Mr President,

Members of the Court,

In the context of the present request for a preliminary ruling you will be led to interpret Council Directive No 221 of 25 February 1964 which, as you are aware, deals with the coordination, within the Member States of the Community, of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health.

In your judgment of 4 December last in Case 41/74 *(van Duyn v Home Office)* you ruled that the provisions of Article 3 (1) of this Community measure, according to which 'Measures taken on grounds of public policy or of public security shall be based exclusively on the personal conduct of the individual concerned', confer 'on individuals rights which are enforceable by them in the national courts of a Member State and which the national courts must protect'.

In this way you acknowledged the direct applicability of this rule within the meaning which your case-law gives to this phrase.

You also decided that an assessment of personal conduct is a necessary condition for any measure taken by the national authorities to restrict the freedom of movement and employment

1 — Translated from the French.