



NEWS REPORT

Date: 8 December 2014
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Title: Conseil d'Etat 19 November 2014, 10th and 9th Sections no 359223
Country: France
Context
Issue at stake: Conformity of travelling documents and of fines attached to their control to article 14 of the Convention and article 2 of the Fourth Protocol to the ECHR
Ground of discrimination: Race/ ethnic origin
Source: National court decision
Field: Other
Legislative provisions: Articles 10 and 12 of Decree no 70-708 of 31 July 1970
 Law no 69-3 of 3 January 1969
 ECHR, articles 14 and article 2 of the 4th Protocol

Content

Case: A French Traveler first petitioned the Minister of Interior to repeal Decree n°70-708 of 31 July 1970 implementing the fines relating to failure to comply with obligations of control of Travelling papers, provided by article 5 and 6 of Law n° 69-3 of 3 January 1969, and given the failure of the Minister to answer this request, filed a motion to quash the implicit decision of the Minister of Interior refusing to repeal the Decree.

Decision of the Court: The Conseil d'Etat (Supreme Administrative Court) states that the requirement that persons who have had no domicile or residence for more than six months, hold specific travelling papers, pursues the administrative and social purposes of providing a mechanism to maintain the relation between the State and these persons and allow their identification, despite their lack of permanent residence.

Therefore, these objectives pursue a legitimate purpose that is based on an objective difference of situation between the situation of Travelers and other French residents that is not a discrimination based on origin. In addition, the Conseil d'Etat considers that this limitation on liberty of movement is justified by the necessity to protect public order in accordance with article 2 par 3 of the 4th Protocol to the ECHR, and proportionate to this objective and therefore does not violate article 14 of the Convention and article 2 of the 4th protocol protecting freedom of movement.

However, the Conseil d'Etat decides that the provisions of article 10 and 12 of Decree no 70-708 of 31 July 1970, that impose penal fines to persons that circulate without being in a position to present upon demand such travelling papers, violate



freedom of movement protected by Article 2 of the 4th Protocol of the ECHR, such restriction being disproportionate to the objectives pursued by the legislation instigating this mechanism.

The implicit decision of the Minister of Interior refusing to repeal these provisions is illegal and the Conseil d'Etat orders the Minister to repeal them within a delay of two months.

Internet link source and additional information:

Conseil d'Etat, 19 November 2014, no 359223:

<http://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000029781213&fastReqId=1369858907&fastPos=19>

Legislative Proposal n° 1610 of 13 December 2013:

<http://www.assemblee-nationale.fr/14/propositions/pion1610.asp>