

**C-145/09 Land of Baden-Württemberg v Panagiotis Tsakouridis, judgment of 23 November 2010**

**Facts:** The respondent was a Greek national who was born and raised in Germany. After being prosecuted for dealing in narcotics, he was the subject of an expulsion order back to Greece. Under Directive 2004/38, citizens of the Union had a right against an expulsion measure being taken against that citizen if he or she had resided in the host Member State for the previous 10 years, save for if the decision was based on "imperative grounds of public security".

The national court had accepted this argument, and had concluded that a criminal conviction could not, in itself, suffice to establish the existence of "imperative grounds" of public security which would justify the applicant's expulsion from Germany. On appeal the appellate court sought to clarify this issue.

**Held:** Firstly, to establish whether the residence criterion under Directive 2004/38 was met, all the relevant factors would have to be taken into account in each individual case, in particular the duration of each period of absence from the host Member State, the cumulative duration and the frequency of those absences, and the reasons why the person concerned left the host Member State and which are of a nature to ascertain whether or not those absences involve the transfer to another State of the centre of personal, family or occupational interests.

Furthermore, for the justification on the "imperative grounds of public security" to succeed, a high degree of seriousness was required: trafficking in narcotics as part of an organised group could reach a level of intensity that might directly threaten the calm and physical security of the population as a whole or a part of it. However, the conduct of the defendant would have to be a genuine and present threat, and so an expulsion order could not be based on the existence of previous criminal convictions or considerations of general prevention. This would require an individual analysis – given that the respondent had lawfully spent most or even all of his childhood and youth in the host Member State, very good reasons would have to be put forward to justify the expulsion measure.