

Netherlands - Raad van State (Council of State) - 201607668/1/V1 – 6 June 2018 -  
ECLI:NL:RVS:2018:1737

**Schengen Borders Code – Public order – Justification of a: ‘genuine, present and sufficiently serious threat affecting one of the fundamental interests of society’ – Suspect of a criminal offence**

*(E.P. against the State Secretary of Security and Justice)*

In a reference for preliminary ruling the Administrative Jurisdiction Division of the Council of State of the Netherlands (Division) asks the ECJ for an interpretation of Article 6(1)(e), and more specifically the concept of ‘public order’, of Regulation (EU) 2016/399 of 9 March 2016 (Schengen Borders Code).

The case concerns an alien who has been ordered to leave the EU because of suspected violations of the Dutch opium act. The question is whether, if pursuant to Article 6, first paragraph, preamble and under e of the Regulation, lawful residence in the Netherlands has ended because the alien is considered to be a threat to public order, the State Secretary is required to justify that the personal conduct of this person constitutes a ‘genuine, present and sufficiently serious threat affecting one of the fundamental interests of society’.

*The official translation of the preliminary questions will be available on the website of the ECJ (case number ECJ: C-380/18).*