

SUMMARY

ECJ 15 July 2021, case C-709/20 (The Department for Communities in Northern Ireland), Social Insurance, Other Fundamental Rights

CG – v – The Department for Communities in Northern Ireland, UK Case

Summary

British Universal Credit legislation is compatible with the principle of equal treatment guaranteed by EU law, but cannot expose Union citizens and their children to a risk of violation of their rights enshrined in the Charter of Fundamental Rights of the European Union, in particular the respect for human dignity.

Question

Must Article 18 TFEU be interpreted as meaning that a national provision that excludes from social benefits Union citizens with a temporary right of residence under national law is covered by the prohibition of discrimination on grounds of nationality laid down in that article?

Ruling

Article 24 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC must be interpreted as not precluding the legislation of a host Member State which excludes from social assistance economically

inactive Union citizens who do not have sufficient resources and to whom that State has granted a temporary right of residence, where those benefits are guaranteed to nationals of the Member State concerned who are in the same situation.

However, provided that a Union citizen resides legally, on the basis of national law, in the territory of a Member State other than that of which he or she is a national, the national authorities empowered to grant social assistance are required to check that a refusal to grant such benefits based on that legislation does not expose that citizen, and the children for which he or she is responsible, to an actual and current risk of violation of their fundamental rights, as enshrined in Articles 1, 7 and 24 of the Charter of Fundamental Rights of the European Union. Where that citizen does not have any resources to provide for his or her own needs and those of his or her children and is isolated, those authorities must ensure that, in the event of a refusal to grant social assistance, that citizen may nevertheless live with his or her children in dignified conditions. In the context of that examination, those authorities may take into account all means of assistance provided for by national law, from which the citizen concerned and her children are actually entitled to benefit.

Creator: European Court of Justice (ECJ)

Verdict at: 2021-07-15

Case number: C-709/20