



In order to be able to acquire the long-term resident status provided for under EU law, third-country nationals must be personally legally and continuously resident in the host Member State for five years before submitting their application

Family members of a long-term resident may not be exempted from that condition

In establishing a uniform status for long-term residents who are third-country nationals (that is, they are nationals of a country outside the EU), EU law¹ aims to harmonise the laws of the Member States. Member States are to grant long-term resident status to third-country nationals who have resided legally and continuously within their territory for five years prior to the submission of the application.

On 28 February 2012, Mrs Shamim Tahir, a Pakistani citizen, applied to the Questura di Verona (Police Headquarters, Verona, Italy) for a long-term resident's EU residence permit to be issued to her as the spouse of Mr Tahir, himself a Pakistani citizen and holder of a long-term resident's EU residence permit. Mrs Tahir's application was refused on the ground that she had not held a valid residence permit for at least five years. Indeed, Mrs Tahir had only been resident in Italy since 15 March 2010, on the basis of a family reunification entry visa enabling her to be reunited with her spouse.

Mrs Tahir has brought an action before the Tribunale di Verona (District Court, Verona, Italy) for annulment of that decision refusing her application. In her view, the directive on third-country nationals who are long-term residents permits Member States to apply measures that are more favourable than those provided for by that directive. Accordingly, under the more favourable measures provided for in Italian law, family members of a long-term resident are not required personally to meet the condition requiring five years' legal and continuous residence.

The Italian court explains that, in Italy, although the grant of a long-term residence permit to family members of a third-country national who has already obtained a permit of that kind is subject to certain conditions (such as sufficient income and suitable accommodation), the five-year residence requirement applies only to that third-country national and not to his family members.

The Italian court therefore asks whether family members of a long-term resident may be exempted from the condition requiring five years' legal and continuous residence in the Member State concerned.

In today's judgment, the Court recalls first of all that, according to the wording of the directive itself, the Member States are to reserve the grant of long-term resident status to third-country nationals who have resided legally and continuously on their territory for five years prior to the submission of the application and that that status is conditional upon evidence that persons making such applications have sufficient resources and sickness insurance.²

However, there is nothing in the wording of the directive to suggest that family members of a long-term resident may, in order to receive the long-term resident status provided for

¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44).

² Case [C-571/10 Kamberaj](#) (see also press release No [48/12](#)).

under that directive, be exempted from the condition requiring five years' legal and continuous residence.

The Court has already had occasion to state that the main objective of the directive is the integration of third-country nationals who are long-term residents in a Member State and that it is the five-year duration of the legal and continuous residence that shows that the person concerned has put down roots in that State. **Consequently, it declares that, in order to be able to acquire the long-term resident status provided for under EU law, third-country nationals must be personally legally and continuously resident in the host Member State for five years before submitting their application.**

In addition, the Court recalls that harmonisation of the terms for acquisition of long-term resident status promotes mutual confidence between Member States. Consequently, a long-term resident's EU residence permit, in principle, grants its holder the right to reside in the territory of a Member State — other than the one which granted him long-term residence status — for a period exceeding three months.

The Court states that the directive also permits the Member States to issue residence permits of permanent or unlimited validity on terms more favourable than those laid down by the directive. None the less, it points out that, according to the wording of the directive itself, permits issued on more favourable terms do not constitute long-term residents' EU residence permits within the meaning of that directive and do not confer the right of residence in the other Member States.

In response to the second question referred, the Court declares that EU law does not allow a Member State to issue family members with long-term residents' EU residence permits on terms more favourable than those laid down by the directive.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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