



Press and Information

Court of Justice of the European Union

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Judgment in Case C-79/13

Federaal agentschap voor de opvang van asielzoekers v Selver Saciri and Others

The financial allowances granted to asylum seekers must enable them to find, if necessary, accommodation on the private rental market

The financial aid may be paid by bodies forming part of the public assistance system, provided that they meet the minimum standards of EU law as regards the material reception conditions

On 11 October 2010, the Saciri family applied for asylum in Belgium. On the same day, the Federaal agentschap voor de opvang van asielzoekers ('Fedasil') informed the Saciri family that it was unable to provide reception and directed it to the Openbaar Centrum voor Maatschappelijk Welzijn van Diest (Diest public centre for social welfare; 'the OCMW'). Having been unable to find housing, the Saciri family turned to the private rental market. Being unable to pay the rent, it lodged an application for financial aid with the OCMW, which was rejected on the ground that the Saciri family ought to have stayed in a reception facility managed by Fedasil.

The Belgian courts then (on 21 January 2011) ordered Fedasil to offer reception facilities to the Saciri family and to pay it a sum of almost €3 000 for the three months during which it was not possible for Fedasil to house the family. An EU directive¹ provides that, where housing (amongst other material reception conditions) is not provided in kind, it must be provided in the form of financial allowances or vouchers. With regard to the period during which the Saciri family was given neither housing in kind nor a financial allowance sufficient to pay its rent (October 2010 to January 2011), Fedasil and the Saciri family appealed to the Arbeidshof te Brussel (Brussels Higher Labour Court, Belgium). That court has therefore referred a number of questions to the Court of Justice.

Firstly, the referring court wishes to know (a) whether a Member State which grants the material reception conditions in the form of financial allowances (and not in kind) is bound to award those allowances from the time of the introduction of the asylum application and (b) whether it must ensure that the amount of those allowances is such as to enable asylum seekers to obtain accommodation. In that regard, the Court recalls that the period during which the material reception conditions must be provided is to begin when the asylum seeker applies for asylum, as is apparent from the terms, general scheme and purpose of the directive.

Furthermore, the Court also deduces from the directive that the financial aid granted must be sufficient to ensure a dignified standard of living and adequate for the health of applicants and capable of ensuring their subsistence, it being understood that the Member State must adjust the reception conditions to the situation of persons having specific needs, in order, in particular, to preserve family unity and to take account of the best interests of the child (accordingly, the amount of the allowances must enable minor children to be housed with their parents). Where the housing is not provided in kind, the financial allowances must enable the asylum seekers to obtain housing, if necessary, on the private rental market, without their being left to make their own choice of housing suitable for themselves.

The referring court also asks whether, where the accommodation facilities for asylum seekers are overloaded, the Member States may refer the asylum seekers to bodies within the general public

¹ Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (OJ 2003 L 31, p. 18).

assistance system. In that regard, the Court states that payment of the financial allowances may be made by such bodies, provided that those bodies ensure that the minimum standards laid down in that directive as regards the asylum seekers are met. In other words, overloading of the reception networks is not a justification for any derogation from meeting those standards.

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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