



## PRESS RELEASE No 204/23

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Judgment of the Court in Case C-488/21 | Chief Appeals Officer and Others

### **Free movement: the mother of an EU migrant worker may, where she is dependent on that worker, apply for social assistance without that application calling her right of residence into question**

A direct relative in the ascending line of a worker who is a Union citizen is an indirect beneficiary of the equal treatment that must be accorded to that worker. National legislation which permits the grant of a social assistance benefit to such a direct ascendant to be refused is contrary to EU law.

A Romanian national is the mother of a citizen of Romanian and Irish nationality residing and working in Ireland. The mother joined her daughter in Ireland in 2017 and has been legally resident there since then, as a direct ascendant dependent on a Union citizen worker. In 2017, the mother's state of health deteriorated as a result of her arthritis. Consequently, she made an application for a disability allowance under Irish law. That application was refused on the ground that, if she were granted that allowance, the mother would no longer be dependent on her daughter, but would become an unreasonable burden on the Irish social assistance system and, therefore, would forfeit her right of residence. An Irish court asks the Court of Justice whether EU law precludes such a refusal.

**The Court holds that EU law precludes legislation which permits a refusal to grant a social assistance benefit to a direct relative in the ascending line who is dependent on a worker who is a Union citizen**, or even to withdraw from him or her the right of residence for more than three months, on the ground that the grant of the benefit would have the effect that that family member would no longer be dependent on that migrant worker and would thus become an unreasonable burden on the social assistance system.

A direct relative in the ascending line, since he or she is dependent on a worker who is a Union citizen, is an indirect beneficiary of the equal treatment accorded to that worker. If that direct relative in the ascending line were not granted social assistance, which constitutes for the migrant worker a 'social advantage', the equal treatment of that migrant worker would thereby be undermined. The status of 'dependent' relative in the ascending line must not be affected by the grant of a social assistance benefit in the host Member State. Otherwise, the grant of such a benefit could result in the person concerned forfeiting the status of dependent family member and, consequently, justify the withdrawal of that benefit or even the loss of his or her right of residence. In practice, such a solution would preclude that dependent family member from claiming that benefit.

Given that the migrant worker pays taxes in the host Member State in the course of his or her employment, he or she contributes to the financing of the social policies of that Member State. He or she should, consequently, profit from them under the same conditions as national workers. Therefore, the objective consisting in avoiding an unreasonable financial burden on the host Member State cannot justify the unequal treatment of migrant workers as compared with national workers.

**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 EU law or the validity of an EU 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 and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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