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Judgment of the Court in Case C-151/24 | [Luevi] ¹

Social assistance for third-country nationals: Member States may require possession of a long-term residence permit

The principle of equal treatment applies, in social matters, only to the social security scheme for workers and does not extend to allowances that are 'purely for assistance'

An Albanian national, who held a two-year residence permit for family reasons also allowing her to work in Italy, applied to the Italian State for a social assistance allowance.

However, the National Social Security Institute (INPS) rejected the application on the ground that the person concerned did not have an EU residence permit for long-term residents, which is required by Italian law for third-country nationals.

In the appeal against that decision, the Italian Court of Cassation referred the matter to the Constitutional Court, considering that this requirement could be in conflict with the Italian Constitution and EU law. The doubt raised, concerns, in particular, compliance with the principle of equal treatment between citizens of a Member State and third-country nationals, ² a principle which applies to measures coordinating social security systems within the European Union. ³

The Constitutional Court then referred a question to the Court of Justice for a preliminary ruling on whether EU law allows a Member State to make the grant of a social assistance allowance to third-country nationals conditional on the possession of a long-term residence permit.

In its judgment, the Court of Justice finds that **the principle of equal treatment, as provided for by EU law, applies only to social security measures intended for persons active in the labour market**. Those measures are characterised by three elements: they cover risks expressly provided for by European legislation, ⁴ they are granted on a non-discretionary basis and they are financed by contributions paid by employees and employers.

On the other hand, **the social allowance in question is a special non-contributory cash benefit, that is to say, granted irrespective of the completion of any period of work, intended to cover a state of need arising from indigence. It does not fall within the concept of 'social security', but rather that of 'social assistance'**, which is covered by the public finances of the host Member State. ⁵

EU law therefore does not require Member States to comply with the principle of equal treatment laid down in that law for the grant of that type of social allowance. In those circumstances, Member States remain free to make the grant of such benefits subject to a condition demonstrating a certain degree of integration of third-country nationals in the host Member State, such as the possession of a long-term residence permit.

Lastly, the Court of Justice points out that, in accordance with European standards, an EU citizen may receive a social assistance benefit in the host Member State only if he or she has a right of permanent residence in the territory concerned.

However, the application of a rule of equal treatment between third-country nationals and citizens of the host Member State for the grant of a social assistance benefit would be contrary to the very objective of EU law, which is to grant third-country nationals rights comparable to those of all EU citizens.

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.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

² Principle established by Article 12(1)(e) of [Directive 2011/98/EU](#) of the European Parliament and of the Council of 13 December 2011, on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State.

³ Concerning [Regulation \(EC\) No 883/2004](#) of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

⁴ The branches of social security covered by the principle of equality are set out in Article 3(1) of Regulation No 883/2004.

⁵ Area covered by Article 70 of Regulation No 883/2004.