

that the courts of the host Member State are required, when examining an action against a decision refusing to grant a jobseeker a right of residence for more than three months, to carry out a review of unlimited jurisdiction and to take account of factors arising after that decision, where those factors are likely to change the jobseeker's situation and justify granting that right of residence?

## Ruling

1. Article 45 TFEU and Article 14(4)(b) 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 meaning that a host Member State is required to grant a reasonable period of time to a Union citizen, which starts to run from the time when that Union citizen registered as a jobseeker, in order to allow that person to acquaint himself or herself with potentially suitable employment opportunities and take the necessary steps to obtain employment.
2. During that period, the host Member State may require the jobseeker to provide evidence that he or she is seeking employment. It is only after the expiry of that period that that Member State may require the jobseeker to show not only that he or she is continuing to seek employment but also that he or she has a genuine chance of being engaged.

68

## ECJ 21 January 2021, C-843/19 (INSS), Gender Discrimination, Pension

Instituto Nacional de la Seguridad Social (INSS)  
– v – BT

### Summary

Requiring a minimum pension amount for allowing early retirement is not contrary to Article 4(1) of Directive 79/7 even if it puts female workers at a particular disadvantage, provided that this is justified by legitimate reasons of social policy which are not related to gender discrimination.

Unfortunately, no English translation of this judgment is available yet. Other language versions are available on:

[http://curia.europa.eu/juris/fiche.jsf?id=C%3B843%3B19%3BRP%3B1%3BP%3B1%3BC2019%2F0843%2FP&oqp=&for=&mat=or&lgrec=en&jge=&td=%3BALL&jur=C%2CT%2CF&num=843%252F19&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=871254](http://curia.europa.eu/juris/fiche.jsf?id=C%3B843%3B19%3BRP%3B1%3BP%3B1%3BC2019%2F0843%2FP&oqp=&for=&mat=or&lgrec=en&jge=&td=%3BALL&jur=C%2CT%2CF&num=843%252F19&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=871254)

## ECJ 26 January 2021, Case C-16/19 (Szpital Kliniczny im. dra J. Babińskiego Samodzielny Publiczny Zakład Opieki Zdrowotnej w Krakowie), Disability Discrimination, General Discrimination

VL – v – Szpital Kliniczny im. dra J. Babińskiego Samodzielny Publiczny Zakład Opieki Zdrowotnej w Krakowie, Polish Case

### Summary

Payment of an allowance only to workers with disabilities who have submitted disability certificates after a date chosen by that employer may constitute direct or indirect discrimination on the grounds of disability.

### Question

Must Article 2 of Directive 2000/78 be interpreted as meaning that the practice adopted by an employer and consisting in the exclusion of workers with disabilities, who have already submitted disability certificates to that employer before the date chosen by that employer for the submission of such a certificate, from receiving an allowance paid to workers with disabilities may be covered by the ‘concept of discrimination’ referred to in that provision?

### Ruling

Article 2 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for