

ECJ 15 September 2022, case C-22/21 (Minister for Justice and Equality (Ressortissant de pays tiers cousin d'un citoyen de l'Union)), Work and residence permit

SRS, AA – v – Minister for Justice and Equality Irish case

Summary

The concept of ‘any other family members who are members of the household of the Union citizen having the primary right of residence’ in point (a) of the first subparagraph of Article 3(2) of Directive 2004/38/EC refers to persons who have a relationship of dependence with that citizen, based on close and stable personal ties, forged within the same household, in the context of a shared domestic life going beyond a mere temporary cohabitation entered into for reasons of pure convenience.

Question

How must the concept of ‘any other family members who are members of the household of the Union citizen having the primary right of residence’, referred to in point (a) of the first subparagraph of Article 3 (2) of Directive 2004/38 be interpreted, so as to clarify the criteria which are to be taken into consideration in that respect?

Ruling

Point (a) of the first subparagraph of Article 3(2) 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: the concept of ‘any other family members who are members of the household of the Union citizen having the primary right of residence’, mentioned in

that provision, refers to persons who have a relationship of dependence with that citizen, based on close and stable personal ties, forged within the same household, in the context of a shared domestic life going beyond a mere temporary cohabitation entered into for reasons of pure convenience.

ECJ 15 September 2022, case C-58/21 (Rechtsanwaltskammer Wien), Social insurance, pension

FK – v – Rechtsanwaltskammer Wien, Austrian case

Summary

The conflict rules in Article 13(2) of Regulation (EC) No 883/2004 are not applicable when a person who resides in one Member State where the centre of interests of his or her activities is also situated, whilst pursuing an activity in two other Member States. Furthermore, EU law precludes national legislation which makes the award of an early retirement pension applied for conditional on the waiver by the person concerned of the right to practice as a lawyer, without taking into account, in particular, the Member State in which the activity concerned is pursued.

Questions

1. Which legislation is applicable under Article 13(2) (b) of Regulation No 883/2004 where the place of residence and the centre of interest of the activities of the person concerned are situated in Switzerland and that person also pursues an activity – which is distributed unevenly – in two other Member States, within the meaning of Article 1(2) of Annex II to the EC-Switzerland Agreement, namely in Germany and Austria?
2. Must EU law be interpreted as precluding national legislation which makes the award of an early retirement pension applied for conditional on the waiver by the person concerned of the right to practice as a lawyer not only in the territory of the Member State concerned but also abroad?