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Judgment of the Court in Case C-624/20 | *Staatssecretaris van Justitie en Veiligheid (Nature of the right of residence under Article 20 TFEU)*

A third-country national who enjoys a right of residence as a family member of an EU citizen may acquire long-term resident status where he or she satisfies the conditions provided for by EU law

In 2013, E. K., a Ghanaian national, obtained a residence permit in the Netherlands as a family member of a Union citizen (Art. 20 TFEU), on account of the existence of a relationship of dependency between that citizen and her son, who holds Netherlands nationality.

In 2019, she applied for a long-term resident's EU residence permit on the basis of the national legislation transposing an EU directive.¹ However, the Netherlands authorities refused her application, on the ground that the right of residence as a family member of an EU citizen is temporary in nature, within the meaning of that directive, and therefore excluded from its scope.

E. K. brought an action against that refusal decision before the District Court, The Hague, sitting in Amsterdam, which decided to make a reference to the Court of Justice on the subject of whether or not to exclude that type of residence permit (as a family member of an EU citizen) in view of obtaining long-term resident status.

The Court, sitting as the Grand Chamber, holds that residence as a family member of an EU citizen is not excluded from the scope of the directive.

In today's judgment, the Court takes the view, in the first place, that the directive excludes from its scope third-country nationals who reside solely on temporary grounds, for example as au pairs or seasonal workers, or as posted workers, or where their residence permit has been formally limited. The common objective of such residences is that they are strictly limited in time and are intended to be of short duration, meaning that they do not permit the long-term residence of a third-country national in the territory of the Member State concerned.

In the case at hand, the right of residence of a third-country national, in his or her capacity as a family member of an EU citizen, is justified on the ground that such residence is necessary in order for that Union citizen to be able genuinely to enjoy the substance of the rights conferred by that status for as long as the relationship of dependency with that national persists. Such a relationship of dependency is not, in principle, intended to be of short duration, but may extend over a considerable period.

In the second place, the Court recalls that the directive's principle objective is the integration of third-country

¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44).

nationals who are settled on a long-term basis in the Member States. Such integration results above all from the five-year duration of the legal and continuous residence.² Having regard to the relationship of dependency between a third-country national and his or her child who is an EU citizen, however, the duration of that national's residence in the territory of the Member States is liable to extend over a considerable period and thus be significantly longer than that duration. Moreover, a third-country national who enjoys such a right of residence must be granted a work permit in order to enable him or her to support his or her child who is a Union citizen, as otherwise that child will be deprived of the genuine enjoyment of the substance of the rights attaching to that status. Therefore, the exercise of an employment in the territory of the Member State concerned over a prolonged period is such as to ingrain that national's roots there even further.

Furthermore, the Court notes that a third-country national who enjoys a right of residence as a family member of an EU citizen must satisfy the conditions laid down by that directive in order to acquire long-term resident status. Thus, in addition to having resided legally and continuously within the territory of the Member State concerned for five years immediately prior to the submission of the relevant application, he or she must provide evidence that he or she has, for himself or herself and for dependent family members, stable and regular resources which are sufficient to maintain himself or herself and the members of his or her family without recourse to the social assistance system of the Member State concerned, and sickness insurance in respect of all risks normally covered for its own nationals in that Member State. Likewise, the Member State concerned may also require third-country nationals to comply with integration conditions in accordance with their national law.

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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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355

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² Article 4(1).