

FAMILY REUNIFICATION DIRECTIVE: Important Jurisprudence of the Court of Justice

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Case C-540/03 (European Parliament vs Council) : Judgment of the Court 27/06/2006

The Court (Grand Chamber) ruled:

1. Dismisses the action; (of the European Parliament seeking the annulment of the final subparagraph of Article 4(1), Article 4(6) and Article 8 of Council Directive 2003/86/EC)
2. Orders the European Parliament to pay the costs;
3. Orders the Federal Republic of Germany and the Commission of the European Communities to bear their own costs.

Case C-578/08 (Chakroun) : Judgment of the Court 04/03/2010

The Court (Second Chamber) ruled:

1. The phrase 'recourse to the social assistance system' in Article 7(1)(c) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification must be interpreted as precluding a Member State from adopting rules in respect of family reunification which result in such reunification being refused to a sponsor who has proved that he has stable and regular resources which are sufficient to maintain himself and the members of his family, but who, given the level of his resources, will nevertheless be entitled to claim special assistance in order to meet exceptional, individually determined, essential living costs, tax refunds granted by local authorities on the basis of his income, or income-support measures in the context of local-authority minimum-income policies ('minimabeleid').
2. Directive 2003/86, in particular Article 2(d) thereof, must be interpreted as precluding national legislation which, in applying the income requirement set out in Article 7(1)(c) of Directive 2003/86, draws a distinction according to whether the family relationship arose before or after the sponsor entered the territory of the host Member State.

Joined Cases C-356/11 (O et S) and C-357/11 (L) : Judgment of the Court 06/12/2012

The Court (Second Chamber) ruled:

Article 20 TFEU must be interpreted as not precluding a Member State from refusing to grant a third country national a residence permit on the basis of family reunification where that national seeks to reside with his spouse, who is also a third country national and resides lawfully in that Member State and is the mother of a child from a previous marriage who is a Union citizen, and with the child of their own marriage, who is also a third country national, provided that such a refusal does not entail, for the Union citizen concerned, the denial of the genuine enjoyment of the substance of the rights conferred by the status of citizen of the Union, that being for the referring court to ascertain.

Applications for residence permits on the basis of family reunification such as those at issue in the main proceedings are covered by Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. Article 7(1)(c) of that directive must be interpreted as meaning that, while Member States have the faculty of requiring proof that the sponsor has stable and regular resources which are sufficient to maintain himself and the members of his family, that faculty must be exercised in the light of Articles 7 and 24(2) and (3) of the Charter of Fundamental Rights of the European Union, which

require the Member States to examine applications for family reunification in the interests of the children concerned and also with a view to promoting family life, and avoiding any undermining of the objective and the effectiveness of that directive. It is for the referring court to ascertain whether the decisions refusing residence permits at issue in the main proceedings were taken in compliance with those requirements.