



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 18/16

Luxembourg, 25 February 2016

Judgment in Case C-299/14

Vestische Arbeit Jobcenter Kreis Recklinghausen v Jovanna García-Nieto
and Others

The Court of Justice confirms that nationals of other Member States may be refused certain social benefits in their first three months of residence

Such a refusal does not presuppose an individual assessment

In today's judgment, the Court of Justice confirms its recent case-law¹ to the effect that a Member State may exclude nationals of other Member States from certain social benefits (such as German subsistence benefits for jobseekers and their children²) during their first three months of residence.

The Court points out that, under the Citizenship Directive,³ EU citizens have the right to reside in another Member State for a period of up to three months without any conditions or any formalities other than the requirement to hold a valid identity card or passport. Since the Member States cannot require Union citizens to have sufficient means of subsistence and personal medical cover for that period, in order to maintain the financial equilibrium of their social assistance systems, the directive allows them to refuse to grant those citizens any social assistance during the first three months.⁴ According to the Court, such a refusal does not presuppose an assessment of the individual situation of the person concerned.

By this judgment, the Court responds to questions referred by the Landessozialgericht Nordrhein-Westfalen (Higher Social Court, North Rhine-Westphalia, Germany), which has to resolve a dispute⁵ between a Spanish family, the Peña-García family, and a German employment centre. The employment centre refused to grant German subsistence benefits⁶ to Mr Joel Peña Cuevas and his son for their first three months of residence in Germany. Under German legislation, foreign nationals are, in principle, excluded from such benefits for the first three months of their residence. Mr Peña Cuevas and his son arrived in Germany at the end of June 2012, a few months after Ms García-Nieto and their daughter. On that date, Ms García-Nieto was already in regular work in Germany, for which, from July 2012, she was compulsorily affiliated to German social security. From the same month, the family received child benefits and the children began attending school at the end of August 2012.

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

¹ Case: [C-67/14](#) Alimanovic, see also Press Release No. [101/15](#) (a Member State may exclude Union citizens who go to that State to find work from certain non-contributory social security benefits), and Case: [C-333/13](#) Dano, see also Press Release No. [146/14](#): economically inactive EU citizens who go to another Member State solely in order to obtain social assistance may be excluded from certain social benefits).

² Subsistence benefits under Book II of the German Social Code. Other benefits, such as child benefits, are not the subject-matter of the present judgment.

³ 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 (OJ 2004 L 158, p. 77, and corrigenda at OJ 2004 L 229, p. 35 and OJ 2005 L 197, p. 34).

⁴ That rule does not apply to workers, self-employed persons and those persons who retain that status.

⁵ Following an appeal brought by the employment centre, these are second instance proceedings. At first instance, the Sozialgericht Gelsenkirchen (Social Court, Gelsenkirchen) upheld the action brought by the Peña-García family.

⁶ See footnote 2 above.

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](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106