

Parties to the main proceedings

Applicant: Federal Republic of Germany

Defendants: BL, BC

Joined party: Stadt Chemnitz

Questions referred

- 1 (a) In the case of subsequent immigration in order to join an unaccompanied minor refugee in accordance with Article 10(3)(a) and Article 2(f) of Council Directive 2003/86/EC⁽¹⁾ of 22 September 2003, can the continued existence of the refugee's minority be a 'condition' within the meaning of Article 16(1)(a) of Directive 2003/86/EC? Is legislation of a Member State under which parents who immigrated subsequently to join an unaccompanied minor refugee for the purposes of Article 2(f) of Directive 2003/86/EC are granted a (derived) right of residence in the Member State only for as long as the refugee is actually still a minor compatible with the aforesaid provisions?
 - (b) If the questions in 1(a) are answered in the affirmative: Is Article 16(1)(a), read in conjunction with Article 10(3)(a) and Article 2(f), of Directive 2003/86/EC to be interpreted as meaning that a Member State under whose legislation the parents' (derived) right of residence is limited to the period up until when the child comes of age is allowed to reject an application for entry and residence for the purpose of family reunification submitted by parents still resident in a third country if the refugee has come of age before the adoption of a final decision, in administrative or court proceedings, on an application lodged within three months of recognition of the child's refugee status?
2. If the answer to Question 1 is that it is not permissible to refuse family reunification:

What requirements are to be imposed in terms of a real family relationship within the meaning of Article 16(1)(b) of Directive 2003/86/EC in cases of subsequent immigration of parents to join a refugee who comes of age before a decision is adopted on the application for entry and residence for the purposes of family reunification? In particular:

- (a) Does a first-degree relationship in the direct ascending line suffice (Article 10(3)(a) of Directive 2003/86/EC) or is a real family life also necessary?
- (b) If a real family life is also necessary:

How close must it be? For example, do occasional or regular visits suffice, must the family cohabit in a single household or must they also be part of a support unit whose members are reliant upon one another?

- (c) For the subsequent immigration of parents who are still in a third country and who have submitted an application for family reunification to join a child with recognised refugee status who has since come of age, must there be the expectation that, following their entry, family life will be (re-)established in the Member State in the manner required in Question 2(b)?

⁽¹⁾ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ 2003 L 251, p. 12).

Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark (Austria) lodged on 5 August 2020 — NW v Landespolizeidirektion Steiermark

(Case C-368/20)

(2020/C 348/11)

Language of the case: German

Referring court

Landesverwaltungsgericht Steiermark

Parties to the main proceedings

Appellant: NW

Respondent authority: Landespolizeidirektion Steiermark

Questions referred

1. Does EU law preclude domestic legislation in the form of consecutive domestic decrees prolonging border control which, cumulatively, allow for the reintroduction of border control for a period which exceeds the two-year time limit laid down in Article 25 and Article 29 of Regulation (EU) 2016/399⁽¹⁾ without a corresponding Council recommendation pursuant to Article 29 of that regulation?

2. If Question 1 is answered in the negative:

Is the right to freedom of movement of EU citizens laid down in Article 21(1) TFEU and Article 45(1) of the Charter of Fundamental Rights of the European Union⁽²⁾ to be interpreted, especially in the light of the principle of the absence of checks on persons at internal borders established in Article 22 of Regulation 2016/399, as meaning that it includes the right not to be subject to checks on persons at internal borders, subject to the conditions and exceptions listed in the Treaties and, in particular, in the above regulation?

⁽¹⁾ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2016 L 77, p. 1, as corrected by OJ 2018 L 272, p. 69).

⁽²⁾ OJ 2012 C 326, p. 391.

**Request for a preliminary ruling from the Landesverwaltungsgericht Steiermark (Austria) lodged on
5 August 2020 — NW v Bezirkshauptmannschaft Leibnitz**

(Case C-369/20)

(2020/C 348/12)

Language of the case: German

Referring court

Landesverwaltungsgericht Steiermark

Parties to the main proceedings

Appellant: NW

Respondent authority: Bezirkshauptmannschaft Leibnitz

Questions referred

1. Does EU law preclude domestic legislation in the form of consecutive domestic decrees prolonging border control which, cumulatively, allow for the reintroduction of border control for a period which exceeds the two-year time limit laid down in Article 25 and Article 29 of Regulation (EU) 2016/399⁽¹⁾ without a corresponding Council recommendation pursuant to Article 29 of that regulation?