

2. *Orders British Airways plc to pay the costs.*

⁽¹⁾ OJ C 191, 30.5.2016.

Judgment of the Court (Grand Chamber) of 14 November 2017 (request for a preliminary ruling from the High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court) — United Kingdom) — Toufik Lounes v Secretary of State for the Home Department

(Case C-165/16) ⁽¹⁾

(Reference for a preliminary ruling — Citizenship of the Union — Article 21 TFEU — Directive 2004/38/EC — Beneficiaries — Dual nationality — Union citizen having acquired the nationality of the host Member State while retaining her nationality of origin — Right of residence in that Member State of a third-country national who is a family member of the Union citizen)

(2018/C 022/08)

Language of the case: English

Referring court

High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court)

Parties to the main proceedings

Applicant: Toufik Lounes

Defendant: Secretary of State for the Home Department

Operative part of the judgment

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, in a situation in which a citizen of the European Union (i) has exercised his freedom of movement by moving to and residing in a Member State other than that of which he is a national, under Article 7(1) or Article 16(1) of that directive, (ii) has then acquired the nationality of that Member State, while also retaining his nationality of origin, and (iii) several years later, has married a third-country national with whom he continues to reside in that Member State, that third-country national does not have a derived right of residence in the Member State in question on the basis of Directive 2004/38. The third-country national is however eligible for a derived right of residence under Article 21(1) TFEU, on conditions which must not be stricter than those provided for by Directive 2004/38 for the grant of such a right to a third-country national who is a family member of a Union citizen who has exercised his right of freedom of movement by settling in a Member State other than the Member State of which he is a national.

⁽¹⁾ OJ C 191, 30.5.2016.