

V

(Announcements)

COURT PROCEEDINGS

EFTA COURT

JUDGMENT OF THE COURT

of 13 May 2020

in Case E-4/19

Campbell

v

The Norwegian Government, represented by the Immigration Appeals Board (*Utlendingsnemnda* – UNE)

(Freedom of movement of workers – Directive 2004/38/EC – Right of residence – Derived rights for third-country nationals)

(2020/C 283/03)

In Case E-4/19, Campbell v The Norwegian Government, represented by the Immigration Appeals Board (*Utlendingsnemnda* – UNE) – REQUEST to the Court under Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice by the Supreme Court of Norway (*Norges Høyesterett*) concerning the interpretation of 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, and in particular Article 7(1)(b) read in conjunction with Article 7(2) thereof, the Court, composed of Páll Hreinsson, President, Per Christiansen, and Bernd Hammermann (Judge-Rapporteur), Judges, gave judgment on 13 May 2020, the operative part of which is as follows:

1. When an EEA national makes use of the right as a worker under Article 28 EEA, and establishes in another EEA State a genuine residence which creates or strengthens family life, the effectiveness of that right requires that the EEA national's family life may continue on returning to the EEA State of origin.

With regard to an EEA national who has not pursued an economic activity, Article 7(1)(b) and (2) of Directive 2004/38/EC are applicable to the situation where an EEA national, who has not pursued an economic activity, returns to the EEA State of origin together with a family member, such as a spouse, who is a national of a third country.

2. Any period of residence pursuant to and in conformity with the conditions set out in Article 7(1) and (2) of Directive 2004/38/EC by an EEA national in an EEA State other than the EEA State of origin, during which the EEA national has created or strengthened family life with a third-country national, creates a derived right of residence for the third-country national upon the EEA national's return to the EEA State of origin. The notion of residence must be interpreted as allowing reasonable periods of absence which may or may not be work-related, and which as to their duration do not contravene and are not inconsistent with a genuine residence. This is without prejudice to Article 35 of Directive 2004/38/EC. However, that an EEA national consciously places himself or herself in a situation conferring a right of residence in another EEA State does not in itself constitute a sufficient basis for assuming abuse.