

Judgment of the Court (Grand Chamber) of 12 March 2014 (request for a preliminary ruling from the Raad van State — Netherlands) — O v Minister voor Immigratie, Integratie en Asiel, Minister voor Immigratie, Integratie en Asiel v B

(Case C-456/12) ⁽¹⁾

(Directive 2004/38/EC — Article 21(1) TFEU — Right to move and reside freely within the territory of the Member States — Beneficiaries — Right of residence of a third-country national who is a family member of a Union citizen in the Member State of which that citizen is a national — Return of the Union citizen to that Member State after short periods of residence spent in another Member State)

(2014/C 135/06)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicants: O., Minister voor Immigratie, Integratie en Asiel

Defendants: Minister voor Immigratie, Integratie en Asiel, B

Re:

Request for a preliminary ruling — Raad van State (Netherlands) — Interpretation of Articles 20 TFEU, 21 TFEU, 45 TFEU and 56 TFEU and of Articles 3(1), 6 and 7(1) and (2) 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 (OJ 2004 L 158, p. 77) — Right of entry and residence of third-country nationals who are family members of a Union citizen — Return of the Union citizen to his Member State of origin after a period of residence spent in another Member State in his capacity as a citizen of the Union within the terms of Article 21 TFEU and as a recipient of services within the terms of Article 56 TFEU — Application of the directive by analogy, as in Case C-370/90 *Singh* and Case C-291/05 *Eind*.

Operative part of the judgment

Article 21(1) TFEU must be interpreted as meaning that where a Union citizen has created or strengthened a family life with a third-country national during genuine residence, pursuant to and in conformity with the conditions set out in Article 7(1) and (2) and Article 16(1) and (2) 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, in a Member State other than that of which he is a national, the provisions of that directive apply by analogy where that Union citizen returns, with the family member in question, to his Member State of origin. Therefore, the conditions for granting a derived right of residence to a third-country national who is a family member of that Union citizen, in the latter's Member State of origin, should not, in principle, be more strict than those provided for by that directive for the grant of a derived right of residence to a third-country national who is a family member of a Union citizen who has exercised his right of freedom of movement by becoming established in a Member State other than the Member State of which he is a national.

⁽¹⁾ OJ C 26, 26.1.2013.