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Court of Justice of the European Union

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Judgment in Joined Cases C-443/14 and C-444/14
Kreis Warendorf v Ibrahim Alo and
Amira Osso v Region Hannover

The Court of Justice delivers a ruling on the relationship between the freedom of movement of beneficiaries of international protection and measures intended to facilitate their integration

A place-of-residence condition may be imposed on beneficiaries of subsidiary protection if they face greater integration difficulties than other non-EU citizens who are legally resident in the Member State that has granted such protection

Under an EU Directive¹ Member States must allow freedom of movement within their territory to persons to whom they have granted subsidiary protection status,² under the same conditions as those provided for other non-EU citizens who are legally resident there.

German law provides that, where beneficiaries of subsidiary protection receive social security benefits, their residence permit is issued subject to a condition requiring residence to be taken up in a particular place (“residence condition”). The aim of the condition is to ensure a balanced distribution of the costs of those benefits among the various competent institutions and to facilitate the integration of non-EU citizens in German society.

Mr Ibrahim Alo and Ms Amira Osso are Syrian nationals who travelled to Germany in 1998 and 2001 respectively. They were granted subsidiary protection status. Residence conditions were also imposed on them, which they have challenged before the German courts. The cases are currently before the Bundesverwaltungsgericht (Federal Administrative Court, Germany), which has asked the Court of Justice whether the residence condition is compatible with the Directive.

By today’s judgment, the Court finds, first, that **the Directive requires the Member States to allow persons to whom they have granted subsidiary protection status not only to move freely within their territory but also to choose their place of residence within that territory.** Accordingly, a residence condition imposed on such persons constitutes a restriction of the freedom of movement guaranteed by the Directive. Where that condition is imposed exclusively on beneficiaries of subsidiary protection who are in receipt of social assistance, it also constitutes a restriction of their access under EU law to social welfare.

The Court points out in that regard that beneficiaries of subsidiary protection cannot, in principle, be subject to more restrictive rules, as regards the choice of their place of residence, than those applicable to non-EU citizens legally resident in the Member State concerned and, as regards access to social assistance, than those applicable to nationals of that Member State.

Nevertheless, the Court takes the view that a residence condition may be imposed exclusively on beneficiaries of subsidiary protection if they are not, so far as the objective of the national rules in question is concerned, in a situation which is objectively comparable with that of non-EU citizens legally resident in the Member State concerned or that of nationals of that State.

¹Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9).

²Subsidiary protection status may be granted to non-EU citizens who do not qualify as refugees but who, on the basis of substantial grounds, have been shown to be in need of international protection.

Next, the Court acknowledges that the movement of recipients of social security benefits or the fact that they are not equally concentrated throughout a Member State may mean that the financial burden connected with those benefits is not evenly distributed among the various institutions with competence in that regard. However, there is no special link between an uneven distribution of that burden and the possible qualification of recipients of social security benefits for subsidiary protection status. In those circumstances, **the Directive precludes the imposition of a residence condition exclusively on beneficiaries of subsidiary protection status for the purpose of achieving an appropriate distribution of the burden connected with the benefits in question.**

However, the Court states that it will be for the Bundesverwaltungsgericht to determine whether beneficiaries of subsidiary protection in receipt of social assistance face greater difficulties relating to integration than other non-EU citizens legally resident in Germany and receiving social assistance. If those two groups of persons are not in a comparable situation so far as the objective of facilitating the integration of non-EU citizens in Germany is concerned, **the Directive does not prevent beneficiaries of subsidiary protection status from being subject to a residence condition for the purpose of promoting their integration**, even if that condition does not apply to other non-EU citizens legally resident in Germany.

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 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.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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