Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

18 June 2020*

(Reference for a preliminary ruling — Citizenship of the European Union — Directive 2004/38/CE — Articles 5, 10 and 20 — Right of entry to a Member State of a third-country national who is a member of the family of an EU citizen — Evidence of holding such a right — Possession of a residence card of a family member of a Union citizen — Possession of a permanent residence card)

In Case C-754/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Fővárosi Közigazgatási és Munkaügyi Bíróság (Administrative and Labour Court, Budapest, Hungary), made by decision of 21 November 2018, received at the Court on 3 December 2018, in the proceedings

Ryanair Designated Activity Company

v

Országos Rendőr-főkapitányság

THE COURT (Third Chamber),

composed of A. Prechal, President of the Chamber, L.S. Rossi, J. Malenovský (Rapporteur), F. Biltgen and N. Wahl, Judges,

Advocate General: M. Szpunar,

Registrar: C. Strömholm, Administrator,

having regard to the written procedure and further to the hearing on 5 December 2019,

after considering the observations submitted on behalf of:

– Ryanair Designated Activity Company, by A. Csehó, Á. Illés, Á. Kollár and V. Till, ügyvédek,

– the Hungarian Government, by M.Z. Fehér, M. Tátrai and Zs. Wagner, acting as Agents,

– the Czech Government, by M. Smolek, J. Vláčil and A. Brabcová, acting as Agents,

– the Greek Government, by L. Kotroni, acting as Agent,

– European Commission, by E. Montaguti, Zs. Teleki and J. Tomkin, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 27 February 2020,

* Language of the case: Hungarian.

gives the following

Judgment

1 The request for a preliminary ruling concerns the interpretation of Articles 5, 10 and 20 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 and corrigenda, OJ 2004 L 229, p. 35, and OJ 2005 L 197, p. 34), and Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (OJ 2000 L 239, p. 19), signed at Schengen on 19 June 1990 and entered into force on 26 March 1995 (hereinafter 'the CISA').

2 This request was made in proceedings between Ryanair Designated Activity Company ('Ryanair') and the Országos Rendőr-főkapitányság (National Police Headquarters, Hungary) concerning a fine imposed on that company.

Legal context

European Union law

Directive 2004/38

3 Recitals 5 and 8 of Directive 2004/38 state:

'(5) The right of all Union citizens to move and reside freely within the territory of the Member States should, if it is to be exercised under objective conditions of freedom and dignity, be also granted to their family members, irrespective of nationality. …

…

(8) With a view to facilitating the free movement of family members who are not nationals of a Member State, those who have already obtained a residence card should be exempted from the requirement to obtain an entry visa within the meaning of Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement [OJ 2001 L 81, p. 1, and corrigenda, OJ 2007 L 29, p. 10, and OJ 2016 L 137, p. 27] or, where appropriate, of the applicable national legislation.

…'

4 Article 3 of Directive 2004/38, entitled 'Beneficiaries', which is contained in Chapter I of that Directive, entitled 'General provisions', provides, in paragraph 1:

'This Directive shall apply to all Union citizens who move to or reside in a Member State other than that of which they are a national, and to their family members … who accompany or join them.'

5 Article 5 of that Directive, entitled 'Right of entry', which is contained in Chapter II thereof, entitled 'Right of exit and entry', provides as follows:

'1. Without prejudice to the provisions on travel documents applicable to national border controls, Member States shall grant Union citizens leave to enter their territory with a valid identity card or passport and shall grant family members who are not nationals of a Member State leave to enter their territory with a valid passport.

No entry visa or equivalent formality may be imposed on Union citizens.

2. Family members who are not nationals of a Member State shall only be required to have an entry visa in accordance with Regulation [No 539/2001] or, where appropriate, with national law. For the purposes of this Directive, possession of the valid residence card referred to in Article 10 shall exempt such family members from the visa requirement.

…'

6 Chapter III of that directive, entitled 'Right of residence', comprises, inter alia, Articles 7, 9 and 10.

7 Article 7 of Directive 2004/38, entitled 'Right of residence for more than three months', provides:

'1. All Union citizens shall have the right of residence on the territory of another Member State for a period of longer than three months if they:

…

2. The right of residence provided for in paragraph 1 shall extend to family members who are not nationals of a Member State, accompanying or joining the Union citizen in the host Member State …

…'

8 Article 9 of that directive, entitled 'Administrative formalities for family members who are not nationals of a Member State', provides in paragraph 1:

'Member States shall issue a residence card to family members of a Union citizen who are not nationals of a Member State, where the planned period of residence is for more than three months.'

9 Article 10(1) of that directive, entitled 'Issue of the residence card', provides as follows:

'The right of residence of family members of a Union citizen who are not nationals of a Member State shall be evidenced by the issuing of a document called "Residence card of a family member of a Union citizen" no later than six months from the date on which they submit the application. …'

10 Chapter IV of that directive, entitled 'Right of permanent residence', contains in particular Articles 16 and 20 thereof.

11 Article 16(1) and (2) of Directive 2004/38, entitled 'General rule for Union citizens and their family members', state:

'1. Union citizens who have resided legally for a continuous period of five years in the host Member State shall have the right of permanent residence there. …

2. Paragraph 1 shall apply also to family members who are not nationals of a Member State and have legally resided with the Union citizen in the host Member State for a continuous period of five years.'

12 Article 20 of that directive, entitled 'Permanent residence card for family members who are not nationals of a Member State', provides, in paragraphs 1 and 2:

'1. Member States shall issue family members who are not nationals of a Member State entitled to permanent residence with a permanent residence card within six months of the submission of the application. The permanent residence card shall be renewable automatically every ten years.

2. The application for a permanent residence card shall be submitted before the residence card expires. …'

The CISA

13 Title II of the CISA, entitled 'Abolition of checks at internal borders and movement of persons', includes a Chapter 6 on 'accompanying measures' of the system it provides for. This chapter contains a single article, Article 26, which states in its paragraphs 1(b) and 2:

'1. The Contracting Parties undertake, subject to the obligations resulting from their accession to the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, to incorporate the following rules into their national law:

…

(b) The carrier shall be obliged to take all the necessary measures to ensure that an alien carried by air or sea is in possession of the travel documents required for entry into the territories of the [c]ontracting [p]arties.

2. The [c]ontracting [p]arties undertake, subject to the obligations resulting from their accession to the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, and in accordance with their constitutional law, to impose penalties on carriers which transport aliens who do not possess the necessary travel documents by air or sea from a Third State to their territories.'

Hungarian legislation

14 Article 3(2) to (4) of the szabad mozgás és tartózkodás jogával rendelkező személyek beutazásáról és tartózkodásáról szóló 2007. évi I. törvény (Law No I of 2007 on the entry and residence of persons enjoying freedom of movement and residence) of 18 December 2006 (*Magyar Közlöny* 2007/1), in the version applicable to the main proceedings, states:

'2. A family member who is a national of a third country and who accompanies a national of the [European Economic Area (EEA)] or a Hungarian citizen, or who joins a national of the EEA or a Hungarian citizen residing in the territory of Hungary, is allowed to enter the territory of Hungary if he/she is in possession of a valid travel document issued within the previous 10 years, the validity of which exceeds the planned date of departure by at least three months, and, unless otherwise provided for in a directly applicable act of [EU] law or in an international convention, a valid visa entitling the holder to an intended stay of no more than 90 days during a period of 180 days ("intended stay of no more than 90 days").

3. A third-country national shall also be allowed to enter the territory of Hungary as a family member, if he/she is in possession of a valid travel document issued within the preceding 10 years, the validity of which exceeds the intended date of departure by at least three months, and, unless otherwise provided for by a directly applicable act of [EU] law or an international convention, a valid visa entitling the holder to an intended stay of no more than 90 days, if he/she is a national of a third country.

…

4. The persons referred to in paragraphs 2 and 3 may enter the territory of Hungary without a visa if they are in possession of a document certifying the right of residence provided for by this Act or a residence card issued by a State party to the [EEA] Agreement to a third-country national family member of the EEA national.'

15 Article 69(1) and (5) of the harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény (Law No II of 2007 on the entry and residence of third-country nationals) of 18 December 2006 (*Magyar Közlöny* 2007/1), in the version applicable to the main proceedings, provides:

'1. Any carrier transporting a third-country national to the territory of Hungary by air, inland waterway or scheduled road transport, or bringing him/her across the territory of Hungary to another country of destination, must ensure prior to the transport that the third-country national has a valid travel document and, as the case may be, a valid visa entitling him/her to stay for a period of no more than 90 days for the purpose of entry or transit.

…

5. An administrative fine, the amount of which shall be determined by special regulations, shall be imposed on any carrier who fails to fulfil its obligation under paragraph 1.

…'

The dispute in the main proceedings and the questions referred for a preliminary ruling

16 On 9 October 2017, the police at Liszt Ferenc Airport in Budapest (Hungary) screened passengers on a Ryanair-operated flight from London (United Kingdom). On that occasion, it found that a passenger of Ukrainian nationality who held a non-biometric passport, a residence card for a family member of a citizen of the Union issued by the United Kingdom of Great Britain and Northern Ireland under Article 10 of Directive 2004/38, but subsequently invalidated, and a valid permanent residence card, also issued by the United Kingdom, under Article 20 of that directive, did not have a visa.

17 Considering that this passenger did not, as a result, hold all the travel documents required to enter Hungarian territory, the police did not authorise him to do so and asked Ryanair to reroute him to London. In addition, it considered that Ryanair had not taken the measures incumbent on it, as a carrier, to ensure that that passenger was in possession of the required travel documents and, for that reason, decided to impose a fine of EUR 3 000 on that company.

18 In its action against that decision before the Fővárosi Közigazgatási és Munkaügyi Bíróság (Administrative and Labour Court of Budapest, Hungary), Ryanair argued that the passenger in question was authorised, under Article 5 of Directive 2004/38, to enter Hungarian territory without a visa, since he had a permanent residence card issued by the United Kingdom under Article 20 of that directive. In that regard, Ryanair submitted, first of all, that, although Article 5 of that directive makes exemption from the visa requirement which it lays down subject to the requirement that a national of a third State must hold a residence card for a family member of a citizen of the Union within the

meaning of Article 10 of that directive, only a person who has previously obtained such a card may subsequently be issued with a permanent residence card. It concluded that a contextual analysis of the provisions in question led to the conclusion that a visa exemption also exists where a third-country national holds a permanent residence card. Secondly, Ryanair considered that the possession of such a card should be considered sufficient, in itself, to prove that that national has the status of a family member of a citizen of the Union. Finally, it added that a carrier is, in any event, not entitled to carry out additional checks relating to the family relationship between the person concerned and a citizen of the Union and that that carrier cannot therefore be penalised for failing to carry out such additional checks.

19 The Hungarian National Police Headquarters took the view, first of all, that Article 5 of Directive 2004/38 must be interpreted literally, in the sense that only the possession of a residence card for a family member of a citizen of the Union, the very title of which establishes the existence of a family relationship with a citizen of the Union, exempts nationals of non-member States from the requirement to be in possession of a visa in order to enter the territory of the Member States. It then deduced that the possession of a permanent residence card, which is not referred to in Article 10 of that directive, cannot be regarded as relieving the holder of such an obligation. Finally, it took the view that that is a fortiori the case where a permanent residence card has been issued by a Member State which, like the United Kingdom at the time of the events giving rise to the dispute in the main proceedings, is not part of the Schengen area. Consequently, a carrier such as Ryanair could be penalised, in accordance with Article 26 of the CISA, if it failed to check that the holder of such a permanent residence card was in possession of a visa.

20 In the light of those arguments, the national court explains, in the first place, that it has doubts as to whether Article 5 of Directive 2004/38 must be interpreted literally or whether its wording must be understood in the light of its context. In that regard, it points out in particular that that directive conceives the right of permanent residence as a 'strengthened' right, granted to nationals of non-member States who are members of the family of a citizen of the Union and who have already enjoyed a right of residence in the territory of a Member State for an uninterrupted period of five years.

21 In the second place, that court questions the scope of the visa exemption provided for in Article 5 of Directive 2004/38, asking whether it is to be understood as benefiting nationals of non-member States who are family members of a citizen of the Union, irrespective of which Member State issued them with a residence card, or whether it must, on the contrary, be understood as being reserved to those who have a residence card issued by a Member State which is part of the Schengen area. It points out, in that regard, that, at the date of the facts giving rise to the dispute before it, the United Kingdom was a Member State of the Union not forming part of the Schengen area.

22 In the third place, the national court points out that, if Article 5 of Directive 2004/38 is interpreted as meaning that the benefit of the visa exemption provided for therein extends to nationals of non-member States who are holders of a permanent residence card issued by a Member State which is not part of the Schengen area, it would like to know whether possession of such a card is sufficient to prove that the holder has the right to enter the territory of another Member State without a visa or whether it is necessary for the person concerned to produce additional documents establishing his or her family relationship with a Union citizen.

23 In the fourth and last place, the national court expresses doubts as to the scope of the obligation on carriers to check the travel documents of third-country nationals who are family members of a Union citizen and who travel by air or sea from one Member State to another, under Article 26 of the CISA. On that point, it wonders whether the 'travel documents' whose possession that Article requires them to check are limited to documents proving that those persons are entitled to enter the territory of that

other Member State or whether they extend beyond that to documents proving that they have a family relationship with a Union citizen. Second, the national court wonders what consequences should be attached to failure to comply with that obligation to check.

24 In those circumstances, the Fővárosi Közigazgatási és Munkaügyi Bíróság (Administrative and Labour Court, Budapest) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'1. Must Article 5(2) … of Directive [2004/38] be interpreted as meaning that, for the purposes of that directive, both the holding of a valid residence card, as referred to in Article 10 thereof, and the holding of a permanent residence card, as referred to in Article 20 thereof, exempt a family member from the requirement to be in possession of a visa at the time of entry to the territory of a Member State?

2. If the answer to question 1 is in the affirmative, must Article 5(2) of Directive 2004/38 be interpreted in the same way where the person who is a family member of an EU citizen and is not a national of another Member State has acquired the right of permanent residence in the United Kingdom and that is the State which issued the permanent residence card to that person? In other words, does the holding of the permanent residence card provided for in Article 20 of that directive, issued by the United Kingdom, exempt the holder of that card from the requirement to obtain a visa, regardless of the fact that neither [Regulation No 539/2001], to which Article 5(2) of Directive 2004/38 refers, nor 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)] is applicable to the United Kingdom?

3. If the answers to questions 1 and 2 are in the affirmative, is the holding of a residence card issued in accordance with Article 20 of Directive 2004/38 to be regarded by itself as sufficient proof that the holder of the card is a family member of an EU citizen and is, without the need for any further checking or certification, permitted, as a family member, to enter the territory of another Member State and is exempt from the requirement to obtain a visa pursuant to Article 5(2) of Directive 2004/38?

4. If the [answer to question 3 is in the negative], must Article 26(1)(b) of the CISA be interpreted as meaning that an air carrier, in addition to checking travel documents, is required to check that a traveller who intends to travel with the permanent residence card referred to in Article 20 of Directive 2004/38 is in fact genuinely a family member of an EU citizen at the time of entry?

5. If [Question 4 is answered in the affirmative]:
   [a] where an air carrier is unable to establish that a traveller who intends to travel with the permanent residence card referred to in Article 20 of Directive 2004/38 is actually a family member of an EU citizen at the time of entry, is that carrier required to deny boarding onto the aircraft and to refuse to transport that person to another Member State?
   [b] where an air carrier does not check that circumstance or does not refuse to transport a traveller who is unable to provide evidence that he is a family member — and who, moreover, holds a permanent residence card — is it possible to impose a fine on that carrier on that ground pursuant to Article 26(2) of the [CISA]?'

Consideration of the questions referred

The first question

25 By its first question, the national court asks, in essence, whether Article 5(2) of Directive 2004/38 must be interpreted as meaning that possession of the permanent residence card referred to in Article 20 of that directive exempts a person, who is not a national of a Member State but who is a family member of a Union citizen and who holds such a card, from the requirement to obtain a visa in order to enter the territory of the Member States.

26 In that regard, the first sentence of Article 5(2) of Directive 2004/38 provides, in its first sentence, that the family members of a Union citizen who are not nationals of a Member State are required to obtain an entry visa, in accordance with Regulation No 539/2001 or national legislation, and, in its second sentence, that, for the purposes of that directive, possession of the valid residence card referred to in Article 10 thereof shall exempt such family members from the requirement.

27 The wording of that provision does not refer to the permanent residence card referred to in Article 20 of Directive 2004/38. However, such an absence of reference is not, in itself, capable of establishing, *a contrario*, the intention of the Union legislature to exclude the family members of a Union citizen who hold a permanent residence card from the benefit of the exemption from the requirement to obtain a visa in order to enter the territory of the Member States provided for in Article 5(2) of that directive.

28 In those circumstances, it is necessary, in accordance with settled case-law, to interpret that provision taking into consideration not only its terms, but also its context and the objectives of the legislation of which it forms part (judgments of 7 June 2005, *VEMW and Others*, C-17/03, EU:C:2005:362, paragraph 41, and of 26 March 2019, *SM (Child placed under Algerian kafala)*, C-129/18, EU:C:2019:248, paragraph 51).

29 As regards, in the first place, the context of Article 5(2) of Directive 2004/38, it should be noted, first, that the residence card referred to in Article 10 of that directive and the permanent residence card referred to in Article 20 of that directive are both documents which, if held by family members of a Union citizen who are not nationals of a Member State, certify that they have a right of residence, and therefore of entry, in the territory of the Member States.

30 More specifically, the card referred to in Article 10 of Directive 2004/38 is, as is apparent from Article 9(1) of that directive, a document issued by the Member States to certify that the persons concerned enjoy a right of residence for more than three months, as provided for in Article 7(2) of that directive.

31 As for the card referred to in Article 20 of Directive 2004/38, it is, according to paragraph 1 of that article, a document issued by the Member States where the persons concerned enjoy a right of permanent residence, as provided for in Article 16(2) of that directive.

32 However, it is apparent from recital 8 of that directive, in the light of which Article 5(2) thereof must be interpreted, that an exemption from the requirement to obtain a visa to enter the territory of the Member States should benefit family members of a Union citizen who have already obtained 'a' residence card. It appears, therefore, that it is the fact of having obtained a residence card, of whatever kind, pursuant to the provisions of Directive 2004/38, which justifies their exemption from the requirement to obtain a visa.

33 On the other hand, the acquisition of a right of permanent residence is subject, as follows from Article 16(2) of Directive 2004/38, to the condition that the family members have resided lawfully for an uninterrupted period of five years with the Union citizen concerned in the host Member State, which necessarily implies that they have previously enjoyed a right of residence of more than three months in the host Member State.

34 Similarly, it follows from Article 20(2) of Directive 2004/38 that a permanent residence card may be issued only to persons who have first obtained a residence card for a family member of a Union citizen.

35 It follows that the family members of a Union citizen who are issued with a permanent residence card are necessarily persons who have previously benefited, as holders of a residence card for a family member of a Union citizen, from the exemption from the requirement to obtain a visa provided for in Article 5(2) of Directive 2004/38.

36 As regards, in the second place, the objective pursued by that directive, it should be pointed out that it consists, as the Court has already observed, in ensuring the gradual integration of Union citizens and their family members who are not nationals of a Member State into the society of the Member State in which they are established (see, to that effect, judgments of 21 December 2011, *Ziolkowski and Szeja*, C-424/10 and C-425/10, EU:C:2011:866, paragraphs 38 and 41, and of 17 April 2018, *B and Vomero*, C-316/16 and C-424/16, EU:C:2018:256, paragraphs 51 and 54).

37 Such an objective precludes the acquisition of a right of permanent residence by family members of a Union citizen from leading to the loss of the exemption from the requirement to obtain a visa, which they enjoyed before acquiring that right of permanent residence, as holders of a residence card for a family member of a Union citizen.

38 In the light of all the foregoing considerations, the answer to the first question must be that Article 5(2) of Directive 2004/38 must be interpreted as meaning that possession of the permanent residence card referred to in Article 20 of that directive exempts a person who is not a national of a Member State, but who is a family member of a Union citizen and who holds such a card, from the obligation to obtain a visa in order to enter the territory of the Member States.

The second question

39 By its second question, the national court asks, in essence, whether Article 5(2) of Directive 2004/38 must be interpreted as meaning that possession of the permanent residence card referred to in Article 20 of that directive exempts the family member of a Union citizen who holds it from the obligation to obtain a visa where that card was issued by a Member State which is not part of the Schengen area.

40 It should be noted at the outset that the provisions applicable to the Schengen area expressly state that they do not affect the freedom of movement of Union citizens and their family members accompanying or joining them, as guaranteed, inter alia, by Directive 2004/38, as the Advocate General pointed out in paragraphs 38 to 40 of his Opinion.

41 In this respect, it should be noted that, in general, that directive applies without distinction to all Member States, whether or not they are part of the Schengen area.

42 As regards Article 5(2) of that directive, the latter makes no specific reference to the Schengen area, whether with a view to making the benefit of the exemption from the obligation to obtain a visa which it provides for subject to the condition that a residence card has been issued by a Member State which is part of that area or, conversely, to excluding from the benefit of such an exemption persons who hold a residence card issued by a Member State which is not part of that area.

43 It follows that the benefit of the exemption from the requirement to obtain a visa, provided for in Article 5(2) of Directive 2004/38, is not limited to family members of a Union citizen who are in possession of a residence card or permanent residence card issued by a Member State which is part of the Schengen area.

44 That interpretation is consistent with the context of Article 5(2) of Directive 2004/38.

45 The 'general provision' in Article 3(1) of that directive provides that it benefits all Union citizens who move to or reside in a Member State other than that of which they are a national, and their family members who accompany or join them.

46 It follows, in particular, for the purposes of interpreting Article 5(2) of Directive 2004/38, that any member of the family of every citizen of the Union is entitled to benefit from the exemption from the visa requirement provided for by that provision. However, to draw a difference between such family members, on the basis of the Member State which issued them with a permanent residence card would exclude some of them from the benefit of that exemption and thus run counter to that provision, read in conjunction with Article 3(1) of that directive.

47 Accordingly, the answer to the second question is that Article 5(2) of Directive 2004/38 must be interpreted as meaning that possession of the permanent residence card referred to in Article 20 of that directive exempts the family member of a Union citizen who holds it from the obligation to obtain a visa where that card was issued by a Member State which is not part of the Schengen area.

The third question

48 By its third question, the national court asks, in essence, whether Article 20 of Directive 2004/38 must be interpreted as meaning that possession of the residence card referred to in that article constitutes sufficient proof that the holder of that card is a family member of a Union citizen, so that the person concerned has the right, without further verification or justification being required, to enter the territory of a Member State exempt from the visa requirement under Article 5(2) of that Directive.

49 In that regard, it follows from the very terms of Article 20(1) of Directive 2004/38, in particular, that Member States may issue a permanent residence card only to persons who have the status of family member of a citizen of the Union.

50 It follows that the issue of a permanent residence card by a Member State implies that that State has necessarily verified, in advance, that the person concerned has that status.

51 Therefore, there is no need for an additional verification of that status.

52 Moreover, as the Court has already pointed out, the issue of the residence card referred to in Article 10 of Directive 2004/38 constitutes a formal finding of the factual and legal situation of the person concerned with regard to that directive (see, to that effect, judgments of 21 July 2011, *Dias*, C-325/09, EU:C:2011:498, paragraph 48; of 18 December 2014, *McCarthy and Others*, C-202/13, EU:C:2014:2450, paragraph 49, and of 27 June 2018, *Diallo*, C-246/17, EU:C:2018:499, paragraph 48).

53 It should be held, by analogy, that the issue of the permanent residence card referred to in Article 20 of that Directive also constitutes a formal recognition of the situation of the person concerned, as attested by that document.

54 It follows that a permanent residence card is such as to justify, in itself, the status of family member of a Union citizen of the person who holds that card.

55 In the light of the foregoing considerations, the answer to the third question must be that Article 20 of Directive 2004/38 must be interpreted as meaning that possession of the residence card referred to in that article constitutes sufficient proof that the holder of that card is a family member of a Union citizen, so that the person concerned is entitled, without further verification or justification being necessary, to enter the territory of a Member State exempt from the visa requirement under Article 5(2) of that Directive.

The fourth and fifth questions

56 In the light of the answer given to the third question, there is no need to answer the fourth and fifth questions.

Costs

57 Since these proceedings are, for the parties in the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

1. **Article 5(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, must be interpreted as meaning that possession of the permanent residence card referred to in Article 20 of that directive exempts a person who is not a national of a Member State, but who is a family member of a Union citizen and who holds such a card, from the requirement to obtain a visa in order to enter the territory of the Member States.**

2. **Article 5(2) of Directive 2004/38 must be interpreted as meaning that possession of the permanent residence card referred to in Article 20 of that directive exempts the family member of a Union citizen who holds it from the obligation to obtain a visa where that card was issued by a Member State which is not part of the Schengen area.**

3. **Article 20 of Directive 2004/38 must be interpreted as meaning that possession of the residence card referred to in that article constitutes sufficient proof that the holder of that card is a family member of a Union citizen, so that the person concerned is entitled, without further verification or justification being necessary, to enter the territory of a Member State exempt from the requirement to obtain a visa under Article 5(2) of that directive.**

[Signatures]