

Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

7 May 2026 (*)

(Reference for a preliminary ruling – Area of freedom, security and justice – Asylum policy – Subsidiary protection status – Directive 2011/95/EU – Article 26 – Access to employment – Article 29 – Social welfare – Equal treatment – Social protection measure and access to employment – Condition of residence for a minimum period of 10 years, the final 2 years of which must have been continuous – Indirect discrimination)

In Case C-747/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunale ordinario di Bergamo (District Court, Bergamo, Italy), made by decision of 15 November 2022, received at the Court on 7 December 2022, in the proceedings

KH

v

Istituto nazionale della previdenza sociale (INPS),

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, T. von Danwitz, Vice-President, F. Biltgen, K. Jürimäe, I. Jarukaitis (Rapporteur), I. Ziemele, J. Passer and O. Spineanu-Matei, Presidents of Chambers, S. Rodin, E. Regan, D. Gratsias, M. Gavalec, Z. Csehi, N. Fenger and R. Frendo, Judges,

Advocate General: N. Emiliou,

Registrar: C. Di Bella, Administrator,

having regard to the written procedure and further to the hearing on 17 June 2025,

after considering the observations submitted on behalf of:

- KH, by A. Guariso, G. Maggi and I. Traina, avvocati,
- the Istituto nazionale della previdenza sociale (INPS), by M. Boccia Neri, M. Sferrazza and V. Stumpo, avvocati,
- the Italian Government, by S. Fiorentino and G. Palmieri, acting as Agents, and by M. Cherubini and P. Gentili, avvocati dello Stato,
- the European Commission, by A. Azéma, M. Debievre and E. Montaguti, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 30 October 2025,

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Articles 26 and 29 of Directive 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).
- 2 The request has been made in proceedings between KH, a beneficiary of subsidiary protection status in Italy, and the Istituto nazionale della previdenza sociale (INPS) (National Social Security Institute, Italy), concerning the latter's decision to revoke the grant of 'citizens' income' in favour of KH.

Legal context

European Union law

- 3 Recitals 12, 41, 42 and 45 of Directive 2011/95 state as follows:

'(12) The main objective of this Directive is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection, and, on the other hand, to ensure that a minimum level of benefits is available for those persons in all Member States.

...

(41) In order to enhance the effective exercise of the rights and benefits laid down in this Directive by beneficiaries of international protection, it is necessary to take into account their specific needs and the particular integration challenges with which they are confronted. Such taking into account should normally not result in a more favourable treatment than that provided to their own nationals, without prejudice to the possibility for Member States to introduce or retain more favourable standards.

(42) In that context, efforts should be made in particular to address the problems which prevent beneficiaries of international protection from having effective access to employment-related educational opportunities and vocational training, inter alia, relating to financial constraints.

...

(45) Especially to avoid social hardship, it is appropriate to provide beneficiaries of international protection with adequate social welfare and means of subsistence, without discrimination in the context of social assistance. ... The possibility of limiting such assistance to core benefits is to be understood as covering at least minimum income support, assistance in the case of illness, or pregnancy, and parental assistance, in so far as those benefits are granted to nationals under national law.'

- 4 Article 1 of that directive, headed 'Purpose', provides as follows:

'The purpose of this Directive is to lay down 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.'

- 5 Article 2 of that directive, headed 'Definitions,' provides as follows:

'For the purposes of this Directive:

- (a) “international protection” means refugee status and subsidiary protection status as defined in points (e) and (g);
- (b) “beneficiary of international protection” means a person who has been granted refugee status or subsidiary protection status as defined in points (e) and (g);

...

- (f) “person eligible for subsidiary protection” means a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) does not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country;

...

- (m) “residence permit” means any permit or authorisation issued by the authorities of a Member State, in the form provided for under that State’s law, allowing a third-country national or stateless person to reside on its territory;

...’

6 Article 26 of that directive, headed ‘Access to employment’, provides:

‘1. Member States shall authorise beneficiaries of international protection to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service, immediately after protection has been granted.

2. Member States shall ensure that activities such as employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience and counselling services afforded by employment offices, are offered to beneficiaries of international protection, under equivalent conditions as nationals.

3. Member States shall endeavour to facilitate full access for beneficiaries of international protection to the activities referred to in paragraph 2.

...’

7 Article 29 of Directive 2011/95, which is headed ‘Social welfare’, reads as follows:

‘1. Member States shall ensure that beneficiaries of international protection receive, in the Member State that has granted such protection, the necessary social assistance as provided to nationals of that Member State.

2. By way of derogation from the general rule laid down in paragraph 1, Member States may limit social assistance granted to beneficiaries of subsidiary protection status to core benefits which will then be provided at the same level and under the same eligibility conditions as nationals.’

Italian law

8 Article 1 of decreto-legge n. 4 Disposizioni urgenti in materia di reddito di cittadinanza e di pensioni (Decree-Law No 4 containing urgent provisions on citizens’ income and pensions) of 28 January 2019 (GURI No 23 of 28 January 2019), enacted into law by legge n. 26 (Law No 26) of 28 March 2019 (GURI No 75 of 29 March 2019) (‘Decree-Law No 4/2019’), provides, in paragraph 1:

‘From April 2019, citizens’ income shall be established ... as a fundamental measure of active employment policy to guarantee the right to work, to combat poverty, inequality and social exclusion, and to promote the right to information, education, training and culture by means of policies for the financial support and social inclusion of persons at risk of exclusion from society and from the world of work. [Citizens’ income] constitutes a core benefit within the limits of available resources.’

- 9 Article 2 of that decree-law, headed ‘Beneficiaries’, lays down the conditions for being granted citizens’ income. Those conditions relate, first, to the nationality and permanent or temporary residence of the applicant and, second, inter alia, to the income, assets and durable goods of the applicant’s household. Regarding the first set of conditions, Article 2(1) provides:

‘[Citizens’ income] shall be granted to households that, at the time the application is made and throughout the period for which the benefit is paid, satisfy the following cumulative conditions:

- (a) with regard to the conditions relating to nationality, permanent residence and temporary residence, the member of the household who is claiming the benefit must cumulatively:
 - (1) hold Italian nationality or that of a Member State of the [European] Union, or [be a] family member of such a person who has the right of residence or permanent residence, or [be] a third-country national holding an [EU] long-term residence permit;
 - (2) have been resident in Italy for at least 10 years, the final 2 years of which, at the time the application is made, must have been continuous, and remain resident in Italy throughout the period for which the benefit is paid;

...’

- 10 Article 3 of that decree-law, headed ‘Financial benefit’, stipulates:

‘1. The financial benefit of [citizens’ income], on an annual basis, shall be comprised of the following two components:

- (a) a family income support component ...;
- (b) a component intended to supplement the income of households living in rented accommodation, equal to the amount of the annual rent provided for in the tenancy agreement ... capped at EUR 3 360 per year.

...

6. [Citizens’ income] shall be granted for the period during which the beneficiary is subject to the conditions referred to in Article 2 and, in any event, for a continuous period of no longer than 18 months.

[Citizens’ income] may be renewed ...’.

- 11 Article 4(1) of Decree-Law No 4/2019 provides that the grant of ‘citizens’ income’ is subject, inter alia, to participation in a personalised programme of support for access to occupational and social integration, including occupational retraining activities, the completion of studies, and other commitments decided upon by the services responsible for occupational and social integration.

- 12 Article 7 of that decree-law, headed ‘Penalties’, provides, in paragraph 4 thereof, that ‘where the authority paying the benefit finds that the declarations and information provided in support of the application do not correspond to the facts ..., that authority shall order the immediate withdrawal of the benefit, with retroactive effect. After the benefit is withdrawn, the recipient shall be required to return amounts unduly received.’

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

- 13 The applicant in the main proceedings arrived in Italy in 2011 and obtained subsidiary protection status there. On that basis, he holds a residence permit and has resided continuously in Italy since 2013. Having declared that he satisfied the condition of at least 10 years' residence in Italy ('the residence condition'), as laid down in Article 2(1)(a)(2) of Decree-Law No 4/2019, he was granted 'citizens' income' as provided for by that decree-law.
- 14 Following certain checks, the INPS, by letter of 13 October 2021, found that that condition was not satisfied, revoked the grant of 'citizens' income', requested repayment of the sums unduly paid in respect of that grant and refused to award him that benefit going forward.
- 15 The applicant in the main proceedings brought an action before the Tribunale ordinario di Bergamo (District Court, Bergamo, Italy), which is the referring court, in which he claimed that that court should find that the INPS's withdrawal of 'citizens' income' was discriminatory and, consequently, acknowledge his entitlement to 'citizens' income' for the period from December 2020 to April 2021 and order the INPS to settle the amount payable in respect of that benefit, in the amount which had been granted to him at the time of the withdrawal, and for the period between that withdrawal and the end of the 18-month period provided for in Article 3(6) of Decree-Law No 4/2019.
- 16 The applicant in the main proceedings requested, in that regard, that the residence condition should not be applied to him, on the ground that that condition is contrary to Articles 26 and 29 of Directive 2011/95, which provide for equal treatment between nationals and beneficiaries of international protection as regards access to employment and social security benefits, and that it constitutes indirect discrimination based on nationality. For that reason, and since the INPS's standard form does not make it possible to apply for a grant of 'citizens' income' without confirming that that condition is satisfied, a false declaration concerning that condition has no effect on a grant of 'citizens' income'.
- 17 The INPS disputes the merits of the claims of the applicant in the main proceedings, arguing that 'citizens' income' does not constitute a social assistance or social welfare benefit, as referred to in Articles 26 and 29 of Directive 2011/95, since, as the Corte costituzionale (Constitutional Court, Italy) held, that income is not a social measure intended to meet an individual's primary need, but pursues various objectives that are more closely associated with active employment policy and social integration.
- 18 The referring court takes the view that, for the purposes of resolving the dispute in the main proceedings, it is necessary to make a reference to the Court of Justice for a preliminary ruling, since, if the Court were to find that the residence condition was contrary to EU law, the rule laying down that condition would have to be disregarded and the claims of the applicant in the main proceedings would have to be upheld.
- 19 In addition, that court states that 'citizens' income' comes within the category of 'social assistance benefits' within the meaning of Article 29 of Directive 2011/95, since it is financed from general tax revenue, paid by the INPS, and granted where resources are insufficient to meet basic needs, as evidenced, in particular, by the numerous references in Decree-Law No 4/2019 to 'poverty' and 'social exclusion', and that the income threshold for eligibility is particularly low. That court also notes that, according to the INPS's practice, beneficiaries of international protection are also eligible for 'citizens' income', even though they are not specifically mentioned in Article 2(a)(1) of Decree-Law No 4/2019.
- 20 In addition, that court takes the view that, in light of the composite nature of 'citizens' income', it is also appropriate to examine whether it is consistent with Article 26 of Directive 2011/95, which concerns equal treatment in the field of access to employment. In that regard, the referring court concludes that certain activities provided for by the national legislation at issue in the main proceedings for beneficiaries of 'citizens' income' come within the concept of 'counselling services' within the meaning of Article 26. In particular, that legislation establishes a personalised programme of support for occupational integration, including occupational retraining, the completion of studies as well as other commitments to the beneficiaries of that allowance. It also lays down an obligation that they must undergo psychological

aptitude interviews and any potential selection test with a view to recruitment when instructed to do so by the competent authorities and accept offers of employment sent by the Centro per l'impiego (Job Centre, Italy).

- 21 The referring court states that the residence condition applies without distinction to all applicants for 'citizens' income'. However, it only appears to be neutral, since it is more difficult for a foreign national to satisfy that condition than an Italian national. That is the case, in particular, for applicants for international protection who, by definition, are third-country nationals who have lived at least part of their lives in those countries. The proportion of persons who did not reside in Italy between 2010 and 2020 is only 0.48% for Italian nationals, as compared with 56% for persons enjoying international protection in that Member State.
- 22 As regards the potential justification of the residence condition, the referring court notes that the purpose of that condition is 'territorial rootedness'. According to that court, first, since the purpose of 'citizens' income' is the integration of those who receive it, that same purpose cannot be a condition for obtaining it. Second, that condition could be satisfied by evidence of intermittent periods during which the applicant concerned was present in Italy, which, consequently, is neither capable of establishing his or her 'territorial rootedness' nor of serving as a genuine prediction of whether or not he or she will be present in that territory in the future. In addition, that court notes that, in order to receive 'citizens' income', the applicant must, in any event, reside permanently in Italy at least during the period when that benefit is paid. It is also required that the adult members of the household to which the applicant belongs be immediately available to undergo training and to respond to offers of employment, and that the applicant participate in a personalised programme of support for occupational and social integration.
- 23 In any event, that residence condition is, in its view, disproportionate and excessive, in the light, in particular, of the judgments of 27 March 1985, *Scrivner and Cole* (122/84, EU:C:1985:145), and of 10 November 1992, *Commission v Belgium* (C-326/90, EU:C:1992:419), relating to the condition of five years' residence required for the grant, inter alia, of minimum guaranteed income. Furthermore, as is apparent from the case-law of the Court, the setting of a criterion based on long-term residence constitutes indirect discrimination against foreign nationals, which is prohibited where it is not based on objective considerations unconnected to the nationality of the persons concerned or is not proportionate to the aim pursued.
- 24 Furthermore, the residence condition is excessively exclusive in that it does not take into account other factors potentially linking applicants for 'citizens' income' to the Italian Republic, such as registration in the population register, the existence of a tenancy agreement of a certain duration or employment or educational relationships prior to the application for that income, the enrolment of children at a school or family reunification in that Member State.
- 25 In those circumstances, the Tribunale ordinario di Bergamo (District Court, Bergamo) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:
- 'Are Articles 29 and 26 [of] Directive 2011/95 to be interpreted as precluding a national provision such as that contained in Article 2(1)(a) [of] Decree-Law No 4/2019, which provides for a requirement of 10 years' residency in Italy, in addition to the condition of 2 years of continuous residency prior to application, in order to access an anti-poverty benefit supporting access to employment and social integration, such as the "[citizens'] income"?''

Procedure before the Court

- 26 In accordance with the third paragraph of Article 16 of the Statute of the Court of Justice of the European Union, the Italian Republic requested that the Grand Chamber deliver a ruling on the present case, of which the Court took formal note on 13 May 2025.

- 27 By decision of the President of the Court of 10 July 2023, the proceedings in the present case were stayed pending the final decision in Joined Cases C-112/22 and C-223/22. The proceedings in the present case were resumed on 5 August 2024, following the delivery of the judgment of 29 July 2024, *CU and ND (Social assistance – Indirect discrimination)* (C-112/22 and C-223/22, EU:C:2024:636).

The jurisdiction of the Court

- 28 The Italian Government submits that the Court lacks jurisdiction to answer the question referred, given that the national provisions applicable in the main proceedings concern a benefit laid down in national legislation in respect of which the Member States alone have jurisdiction. The ‘citizens’ income’ at issue in the main proceedings is not a social assistance measure, the sole aim of which is to provide the persons concerned with a certain level of income, but is instead a complex measure intended above all to support social inclusion and the reintegration of those persons into the workplace.
- 29 In that connection, the Court notes that the present request for a preliminary ruling concerns the interpretation of EU law, namely Articles 26 and 29 of Directive 2011/95 in particular, which clearly falls within the jurisdiction of the Court (see, by analogy, judgment of 29 July 2024, *CU and ND (Social assistance – Indirect discrimination)*, C-112/22 and C-223/22, EU:C:2024:636, paragraph 26 and the case-law cited).
- 30 In addition, in so far as, by that plea of lack of jurisdiction, the Italian Government claims that the ‘citizen’s income’ at issue in the main proceedings does not come within the scope of Articles 26 and 29, such a complaint is not liable to call into question the Court’s jurisdiction to answer the question referred. The applicability and scope of Articles 26 and 29 of Directive 2011/95 must be determined in the context of the examination of the substance of that issue (see, to that effect, judgment of 29 July 2024, *CU and ND (Social assistance – Indirect discrimination)*, C-112/22 and C-223/22, EU:C:2024:636, paragraph 27 and the case-law cited).
- 31 It follows that the Court does have jurisdiction to rule on the request for a preliminary ruling.

Consideration of the question referred

- 32 By its question, the referring court asks, in essence, whether Articles 26 and 29 of Directive 2011/95 must be interpreted as precluding legislation of a Member State which makes the application of a national measure that is aimed at combating poverty and supporting access to work and social integration to third-country nationals who are beneficiaries of subsidiary protection status subject to the condition, which also applies to nationals of that Member State, that they must have resided in that Member State for at least 10 years, the last 2 years of which must have been continuous.

The scope of Articles 26 and 29 of Directive 2011/95

- 33 The INPS and the Italian Government submit that a measure such as ‘citizens’ income’ does not come within the scope of Articles 26 and 29 of Directive 2011/95. They argue that ‘citizens’ income’ is not merely a social assistance benefit intended to remedy a state of financial need, but a broader personalised measure which forms part of a wider framework including both assistance to households in poverty and the commitments made by those households to achieve specific objectives with a view to helping them to become independent. They state, inter alia, that that benefit is subject to a declaration being provided by the adult members of the household confirming that they are immediately available for work and to the signing of an ‘employment pact’ agreed with a job centre. They infer from that that ‘citizens’ income’ is primarily a measure of occupational reintegration and social inclusion, the composite nature of which has, moreover, been established by the Corte costituzionale (Constitutional Court).

- 34 In that regard, in the first place, Article 26 of Directive 2011/95, headed ‘Access to employment’, provides, in paragraph 2, that Member States are to ensure that activities such as employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience and counselling services afforded by employment offices, are offered to beneficiaries of international protection – which include, under Article 2(f) of that directive, beneficiaries of subsidiary protection status – under equivalent conditions as nationals. As is clear from the use of the words ‘such as’ in most of the language versions of Article 26(2), the list of those activities is not exhaustive, but is illustrative, with that provision also covering other counselling and training activities linked to employment and occupational integration. In addition, Article 26(3) stipulates that Member States are to endeavour to facilitate full access for beneficiaries of international protection to those activities.
- 35 Therefore, the obligations laid down in Article 26(2) and (3) of Directive 2011/95 are intended to ensure the effectiveness of the principle laid down in paragraph 1 of that article, according to which Member States are to authorise beneficiaries of international protection to engage in employed or self-employed activities immediately after protection has been granted. To that end, in application of paragraphs 2 and 3, Member States are not only obliged to make available to beneficiaries of international protection, under equivalent conditions as nationals, counselling and training activities linked to employment and occupational integration, such as those referred to in paragraph 2, but they must also endeavour to facilitate the full access of such beneficiaries to those activities, which may involve, inter alia, the taking of initiatives with a view to removing obstacles liable to hinder such access.
- 36 As is apparent, in particular, from recitals 41 and 42 of Directive 2011/95, it is necessary to take account of the specific needs and challenges associated with the integration of beneficiaries of international protection and, consequently, to make efforts to address the problems that prevent them from effectively accessing employment-related educational opportunities and vocational training.
- 37 In the present case, as is indicated by the referring court, Article 4(1) of Decree-Law No 4/2019 provides that the grant of ‘citizens’ income’ is subject, inter alia, to participation in a personalised programme of support for occupational and social integration, including occupational retraining, the completion of studies and other commitments decided upon by the competent services. As the Advocate General observed in points 34 to 36 of his Opinion, first, the activities listed in that provision therefore largely coincide with those referred to in Article 26(2) of Directive 2011/95. Second, subject to verification by the referring court, Article 4(1) of Decree-Law No 4/2019 pursues the same objective as Article 26(2) of Directive 2011/95, namely that of facilitating the entry of the persons concerned into the labour market.
- 38 In that regard, while recital 42 of Directive 2011/95 expressly states that efforts must be made to address, inter alia, problems of a financial nature which prevent beneficiaries of international protection from effectively accessing employment-related educational opportunities and vocational training, Article 1(1) of Decree-Law No 4/2019 provides that ‘citizens’ income’ is a fundamental measure of active employment policy aimed, inter alia, at guaranteeing the right to employment by means of policies aimed at providing financial support for persons at risk of exclusion from society and the world of work. Subject to verification by the referring court, it follows that that decree-law acknowledges the need, identified by that directive, to grant a form of financial aid to the persons concerned who, without that aid, might not be able to participate in the training and advisory activities aimed at them.
- 39 In the second place, Article 29 of Directive 2011/95 provides that Member States are to ensure that beneficiaries of international protection receive, in the Member State that has granted such protection, the necessary social assistance as provided to nationals of that Member State.
- 40 In that regard, the Court has held previously that the concept of ‘social assistance’ benefits refers to all assistance schemes established by the public authorities, whether at national, regional or local level, to which recourse may be had by an individual who does not have resources sufficient to meet his or her own basic needs and those of his or her family (judgment of 28 October 2021, *ASGI and Others*, C-462/20, EU:C:2021:894, paragraph 34).

- 41 It should be noted that, according to Article 1(1) of Decree-Law No 4/2019, ‘citizens’ income’ corresponds precisely to an essential level of benefit within the limits of the available resources the purpose of which, inter alia, is to combat poverty and social exclusion. As the referring court has pointed out, that benefit constitutes an assistance measure, one of the core objectives of which is to ‘combat poverty’, inter alia, by supplementing the income of those who receive it in order to enable them to meet their basic needs. In addition, as the referring court has also stated, that measure is financed by resources derived from general taxation, is paid by the INPS and is granted to applicants who do not have sufficient resources in terms of income and assets.
- 42 However, the Italian Government submits that ‘citizens’ income’ does not constitute a ‘core benefit’ within the meaning of Article 29(2) of Directive 2011/95, with the result that, in essence, there is no need to treat beneficiaries of subsidiary protection status on an equal footing with Italian nationals as regards that national measure.
- 43 In that regard, it is true that, in accordance with Article 29(2) of Directive 2011/95, Member States may limit social assistance granted to beneficiaries of subsidiary protection status to core benefits. However, first, it should be noted that paragraph 2 derogates from the general rule laid down in paragraph 1 of that article and must therefore be strictly interpreted (judgment of 29 April 2004, *Kapper*, C-476/01, EU:C:2004:261, paragraph 72). In addition, those core benefits cover, as a minimum, according to recital 45 of that directive, the provision of support, inter alia, in the form of minimum income support. As the Advocate General observed in point 53 of his Opinion and subject to the verifications to be carried out by the referring court, it is apparent from the preamble to Decree-Law No 4/2019 that the objective of the measure at issue is to ensure a minimum level of subsistence.
- 44 Second, and in any event, it does not appear from the file available to the Court that the Italian Republic had flagged its intention to have recourse to the derogation from the principle of equal treatment provided for in paragraph 2 and to limit the equal treatment of beneficiaries of subsidiary protection status solely to core benefits (see, by analogy, judgments of 24 April 2012, *Kamberaj*, C-571/10, EU:C:2012:233, paragraphs 87 and 88, and of 29 July 2024, *CU and ND (Social assistance – Indirect discrimination)*, C-112/22 and C-223/22, EU:C:2024:636, paragraph 42).
- 45 It follows from all of the foregoing that the ‘citizens’ income’ provided for by the Italian legislation at issue in the main proceedings – which is a composite benefit, in that it is, first, a measure comprising the activities and services referred to in Article 26 of Directive 2011/95 and, second, a social assistance benefit, within the meaning of Article 29 of that directive – comes within the scope of those articles; however, that remains for the referring court to confirm by taking into account the considerations set out in paragraphs 34 to 44 of the present judgment.
- 46 That finding is not called into question by the line of argument of the INPS and the Italian Government, referred to in paragraph 33 of the present judgment, which is essentially based on the fact that ‘citizens’ income’ is complex in nature and comprises multiple components.
- 47 As the Advocate General also observed in points 56 to 80 of his Opinion, the fact that ‘citizens’ income’ has a complex structure with multiple components cannot mean that it is shielded from coming within the scope of Articles 26 and 29 of Directive 2011/95. First, there is nothing in the wording of those articles or in the scheme of that directive to indicate that those articles are not to be applied to measures pursuing a twofold objective corresponding to the respective objectives of those two articles. Second and most importantly, excluding a national measure such as ‘citizens’ income’ from the scope of Directive 2011/95 on the ground that that measure pursues such a twofold objective is manifestly contrary to the purpose of Articles 26 and 29 of that directive.

The compatibility of a residence condition such as the condition at issue in the main proceedings with Articles 26 and 29 of Directive 2011/95

- 48 As regards whether a residence condition such as the condition that must be met under Article 2(1)(a)(2) of Decree-Law No 4/2019 for a grant of ‘citizens’ income’ is compatible with Articles 26 and 29 of Directive 2011/95, it is relevant that those articles provide for equal treatment between beneficiaries of international protection and nationals of the Member State that has granted that protection.
- 49 Articles 26 and 29 therefore constitute an expression of the principle of equal treatment laid down in Article 20 of the Charter of Fundamental Rights of the European Union, which is a general principle of EU law. That principle requires that comparable situations not be treated differently and that different situations not be treated in the same way, unless such different treatment is objectively justified (judgment of 8 March 2022, *Bezirkshauptmannschaft Hartberg-Fürstenfeld (Direct effect)*, C-205/20, EU:C:2022:168, paragraph 54).
- 50 That principle prohibits not only overt discrimination, but also all covert forms of discrimination which, although based on ostensibly neutral distinguishing criteria, ultimately produce the same discriminatory effects (see, to that effect, judgment of 29 July 2024, *CU and ND (Social assistance – Indirect discrimination)*, C-112/22 and C-223/22, EU:C:2024:636, paragraph 48). In that regard, the Court has held previously that conditions imposed by national law must be regarded as indirectly discriminatory where, although applicable irrespective of nationality, they affect essentially non-nationals or the great majority of those affected are non-nationals, where they are applicable without distinction but can more easily be satisfied by nationals than by non-nationals, or where there is a risk that they may operate to the particular detriment of the latter (see, by analogy, judgment of 5 December 2019, *Bocero Torrico and Bode*, C-398/18 and C-428/18, EU:C:2019:1050, paragraph 41 and the case-law cited).
- 51 In the present case, it is not disputed that the residence condition at issue in the main proceedings applies in the same way both to beneficiaries of international protection and to Italian nationals.
- 52 However, in the context of a case concerning the same national legislation as the legislation at issue in the main proceedings, the Court has held previously, first, that such a residence condition affects primarily non-nationals, which include, inter alia, beneficiaries of international protection and, second, that the difference in treatment between the latter and nationals which results from national legislation laying down such a condition constitutes indirect discrimination (see, to that effect, judgment of 29 July 2024, *CU and ND (Social assistance – Indirect discrimination)*, C-112/22 and C-223/22, EU:C:2024:636, paragraphs 50 and 52).
- 53 It is, moreover, immaterial whether, in some circumstances, the measure at issue in the main proceedings affects, as well as beneficiaries of international protection, nationals who are unable to fulfil such a condition. A measure may be regarded as indirectly discriminatory without there being any need for it to have the effect of placing all nationals at an advantage or placing only third-country nationals at a disadvantage (see, to that effect, judgment of 29 July 2024, *CU and ND (Social assistance – Indirect discrimination)*, C-112/22 and C-223/22, EU:C:2024:636, paragraph 51).
- 54 Such discrimination is, in principle, prohibited, unless it is justified objectively. In order to be justified, it must be appropriate for securing the attainment of a legitimate objective and must not go beyond what is necessary to attain that objective (judgment of 29 July 2024, *CU and ND (Social assistance – Indirect discrimination)*, C-112/22 and C-223/22, EU:C:2024:636, paragraph 53).
- 55 The Italian Government states, in its written observations, that, given that ‘citizens’ income’ is a financial benefit the grant of which is made conditional on the participation of the adult members of the household concerned in a personalised programme of support with the aim of employment and social inclusion, implemented on the basis of specific agreements, that grant involves the realisation of a process of social and professional integration that is highly complex both administratively and financially.
- 56 In that regard, that government submits that a measure such as the one at issue in the main proceedings involves the mobilisation of significant financial resources. Such a measure allegedly goes beyond a mere financial allowance granted to households in need, since it is associated with additional costs. It is

therefore reasonable for the national legislature to restrict the application of that measure solely to persons who are firmly established within the national community and who may be regarded as permanent members of that community. Therefore, according to that government, the national legislature duly limited access to that income to beneficiaries of international protection who are established in Italy permanently and are well integrated there.

- 57 However, the grant of social benefits to a given person will entail costs for the institution that is required to provide those benefits, regardless of whether that person is a beneficiary of international protection or a national of the Member State concerned. A difference in situation between the two categories of person cannot therefore be established in that regard (see, to that effect, judgment of 1 March 2016, *Alo and Osso*, C-443/14 and C-444/14, EU:C:2016:127, paragraph 55, and of 21 November 2018, *Ayubi*, C-713/17, EU:C:2018:929, paragraph 34).
- 58 Furthermore, as the Advocate General observed, in essence, in point 92 of his Opinion, accepting the argument that the national legislature is entitled, in the light of the administrative and financial costs of the measure concerned, to limit access to that measure solely to beneficiaries of international protection who are permanently established and well-integrated in the Member State concerned, would amount to introducing a derogation from the rules set out in Articles 26 and 29 of Directive 2011/95, which was not provided for by the EU legislature.
- 59 The Court has held previously that, since the rights conferred by Chapter VII of Directive 2011/95, which includes Articles 26 and 29 thereof, derive from the grant of refugee status, and not from the issue of the residence permit, they may be limited only in accordance with the conditions set by that chapter, with the result that Member States are not entitled to make provision for restrictions not already listed there. Since Articles 26 and 29 concern all beneficiaries of international protection and thus also beneficiaries of subsidiary protection, they do not make the rights to which they are entitled depend on the length of their stay in the Member State concerned or the duration of the residence permit they have (see, to that effect, judgment of 21 November 2018, *Ayubi*, C-713/17, EU:C:2018:929, paragraphs 27 and 28).
- 60 Moreover, as the Advocate General stated, in essence, in points 101 and 102 of his Opinion, the status of beneficiaries of international protection is not permanent, with the Member State concerned being obliged, where a person ceases to be a refugee or is no longer able to benefit from subsidiary protection status, to revoke, end or refuse to renew his or her status, which may entail the revocation of the residence permit and the return of the individual in question to his or her country of origin. It follows that imposing on beneficiaries of international protection a requirement to demonstrate that they are firmly established in the Member State concerned, or to prove the existence of a genuine and sufficiently close link with the legal order of that Member State, as a condition for the application of Articles 26 and 29 of Directive 2011/95, is inconsistent with the objectives of that directive, including the objective of ensuring that a minimum level of benefits is available for those persons in all Member States, in accordance with recital 12 of that directive.
- 61 It follows that a residence condition of at least 10 years, the last 2 years of which must have been continuous, such as the condition on which the grant of ‘citizens’ income’ is contingent, constitutes indirect discrimination to the detriment of beneficiaries of subsidiary protection status which does not appear to be objectively justified.
- 62 In the light of all the grounds above, the answer to the question referred is that Articles 26 and 29 of Directive 2011/95 must be interpreted as precluding legislation of a Member State which makes the application of a national measure that is aimed at combating poverty and supporting access to work and social integration to third-country nationals who are beneficiaries of subsidiary protection status subject to the condition, which also applies to nationals of that Member State, that they must have resided in that Member State for at least 10 years, the last 2 years of which must have been continuous.

Costs

- 63 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring 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 (Grand Chamber) hereby rules:

Articles 26 and 29 of Directive 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

must be interpreted as precluding legislation of a Member State which makes the application of a national measure that is aimed at combating poverty and supporting access to work and social integration to third-country nationals who are beneficiaries of subsidiary protection status subject to the condition, which also applies to nationals of that Member State, that they must have resided in that Member State for at least 10 years, the last 2 years of which must have been continuous.

[Signatures]

* Language of the case: Italian.