

Subject-matter concerned	☐ 1) non-discrimination on grounds of nationality ☒ 2) freedom of movement and residence: Art. 5,7,8,14,15, 27 and 28 Directive 2004/38 ☐ 3) voting rights ☐ 4) diplomatic protection ☐ 5) the right to petition
Decision date	27. 06. 2013
Deciding body (in original language)	Tribunal Supremo. Sala de lo Contencioso administrativo
Deciding body (in English)	Supreme Court (Chamber -contentious administrative) Headquarter Court: Madrid
Case number (also European Case Law Identifier (ECLI) where applicable)	Appeal 3173/2012 Roj: STS 3456/2013 Id Cendoj 280791300032013100189 ECLI: ES:TS:2013:3456 Reporting Judge: Manuel Campos Sánchez Bordona
Parties	Petitioner: Mrs. María Virtudes v. General State Administration of Spain (<i>Administración General del Estado Español</i>) Madrid
Web link to the decision (if available)	--- http://www.poderjudicial.es/search/doAction?action=contentpdf&databasematch=TS&reference=6784316&links=ascendientes%20extranjer%EDa&optimize=20130708&publicinterface=true
Legal basis in national law of the rights under dispute	Royal Decree 240/2007, of 16 February (<i>Real Decreto 240/2007, de 16 de febrero, sobre entrada, libre circulación y residencia en España de ciudadanos de los Estados miembros de la Unión Europea y de otros Estados parte en el Acuerdo sobre el Espacio Económico Europeo</i>) and, therefore, Directive 2004/38: Thus (-Article 2, 2) (d) of Directive 2004/38/EC - Article 5,2 of Directive 2004/38/EC 2. - Article 7 EU Charter - Article 8 ECHR.
Key facts of the case (max. 500 chars)	The petitioner appeals against the decision of the High Court of Madrid, which endorsed the original decision to refuse the family reunification visa to the parents of the petitioner, (a EU citizen living in Spain) a petition which she considered to be a right deriving from Directive 240/2007 and Articles 7 Of the EU Charter and 8 of the ECHR

Main reasoning / argumentation (max. 500 chars)	The Supreme Court understands that in this case the concurrence of the requirement (both in the Directive and in the Spanish legislation that transposes it) that the ascendants regrouped shall live in charge of the community citizen regrouping is not fulfilled. The contested acts deny such a visa application, in accordance with Royal Decree 240/2007, and Directive 2004/38 / EC on the grounds that economic dependence has not been proven conclusively.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	In order to determine whether the ascendants (3CN) of a EU citizen under the Directive 2004/38/EC are in charge of the said EU citizen, the host Member State must assess whether, in view of their economic and social circumstances, they are unable to meet their basic needs without the EU member assistance. In principle, at least one of the ascendants - the mother, who in her passport indicates that she is a nurse of profession - is of working age. The remittances delivered by M.V. to their parents where not enough to attends the ascendants needs. As a consequence the dependant condition has not been proven.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The Court insists that the general requirement concerning the interpretation of the essential requirement ("being in charge") discussed in each of the respective assumptions has not been proven. As a consequence there is not breach of the right to family reunion at Royal Decree 240/2007 (Directive 2004/38) neither of Article 7 EU Charter on Fundamental rights.
Key quotations in original language and translated into English with reference details (max. 500 chars)	“Por todo lo cual, sólo cabe concluir que en este caso no se ha acreditado la concurrencia del requisito legal de que los ascendientes reagrupados viven a cargo de la ciudadana comunitaria reagrupante, en el sentido de que dependen de forma efectiva y exclusiva de dicha hija, lo que supondría, en caso de haberse probado tal requisito, que los reagrupados son integrantes de forma real y no meramente nominal de la familia de la reagrupante, de modo que la concesión del visado sería necesaria para garantizar el derecho a la vida familiar al que se refiere el artículo 7 de la CEDH .FALLAMOS Primero.- Desestimar el recurso de casación 3173/2012 interpuesto por D^a. <i>María Virtudes</i> contra a sentencia dictada por la Sala de lo Contencioso-Administrativo, Sección Primera, del Tribunal Superior de Justicia de Madrid con fecha 8 de junio de 2012 en el recurso número 675 de 2011 . Segundo.- Imponemos a la parte recurrente las costas de su recurso en los términos precisados en el último de los fundamentos de la sentencia.” Translation “For all these reasons, it can only be concluded that in this case the concurrence of the requirement legally recognized that the regrouped ascendants live in charge of the petitioner, meaning that they depend in <i>an effective and exclusive way</i> on that daughter, which would mean, if proved such requirement, that the regrouped are members of real form and not merely nominal of the family of the applicant, so that the granting of the visa would be necessary to guarantee the right to life family relationship referred to in Article 7 of the Charter : is not fulfilled The Court fails First.- To dismiss appeal cassation 3173/2012 filed by D^a. M. V. against the sentence issued by the Administrative Litigation Chamber, First Section, of the Superior Court of Justice of Madrid on June 8, 2012 in resource number 675 of 2011.Second.- We impose on the appellant the costs of his appeal in the terms specified in the last of the grounds of the judgment.”
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	Yes Article 7 of the EU Charter of Fundamental rights