

<b>Subject-matter concerned</b>	<input checked="" type="checkbox"/> 1) non-discrimination on grounds of nationality <input type="checkbox"/> 2) freedom of movement and residence - linked to which article of the Directive 2004/38 <input type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
<b>Decision date</b>	19 September 2012
<b>Deciding body (in original language)</b>	<i>Tribunale di Trieste</i>
<b>Deciding body (in English)</b>	Ordinary Court of Trieste
<b>Case number (also European Case Law Identifier (ECLI) where applicable)</b>	DecisionNo. RG 914/11 of 19 September 2012
<b>Parties</b>	<i>Association for Legal Studies on Immigration (Associazione per gli Studi Giuridici sull'Immigrazione, ASGI) v. the Ministries of Economy and Finances (Ministero dell'Economia e delle Finanze) and of Labour and Social Policies (Ministero del Lavoro e delle Politiche Sociali), the Region of Friuli Venezia Giulia (Regione Autonoma Friuli-Venezia Giulia), and the National Institute of Social Security (Istituto Nazionale della Previdenza Sociale, INPS)</i>
<b>Web link to the decision (if available)</b>	<a href="http://www.asgi.it/wp-content/uploads/public/trib_triESTE_ord_19092012.pdf">www.asgi.it/wp-content/uploads/public/trib_triESTE_ord_19092012.pdf</a>

<b>Legal basis in national law of the rights under dispute</b>	Legislative Decree No. 215 of 9 July 2003 on the implementation of the Directive 2000/43/EC concerning the equal treatment between persons irrespective of racial or ethnic origin ( <i>Decreto Legislativo 9 luglio 2003, n. 215 “Attuazione della direttiva 2000/43/CE per la parità di trattamento tra le persone indipendentemente dalla razza e dall'origine etnica”</i> )
<b>Key facts of the case</b> (max. 500 chars)	An EU citizen, with the support of ASGI, challenged Article 81 of Decree Law No. 112 of 25 June 2008, Urgent provisions for economic development, simplification, competitiveness, stabilisation of public finances, and tax equalisation ( <i>Decreto-legge 25 giugno 2008, n. 112, Disposizioni urgenti per lo sviluppo economico, la semplificazione, la competitività, la stabilizzazione della finanza pubblica e la perequazione tributaria</i> ), converted into Law 133 of 6 August 2008, Conversion into law, with modifications, of Decree Law No. 112 of 25 June 2008, Urgent provisions for economic development, simplification, competitiveness, stabilisation of public finances, and tax equalisation ( <i>Legge 6 agosto 2008, n. 133, Conversione in legge, con modificazioni, del decreto-legge 25 giugno 2008, n. 112, recante disposizioni urgenti per lo sviluppo economico, la semplificazione, la competitività, la stabilizzazione della finanza pubblica e la perequazione tributaria</i> ). The abovementioned article introduced some welfare provisions that could be accessed by Italian citizens only. The same EU citizen furthermore challenged Article 10, paragraph 78 of Regional Law of Friuli Venezia Giulia No. 17 of 30 December 2008, Provisions for the preparation of the Region's multi-annual and annual budget (Financial Law 2009) ( <i>Legge regionale 30 dicembre 2008, n. 17, Disposizioni per la formazione del bilancio pluriennale e dell'annualità della Regione (Legge finanziaria 2009)</i> ), which increased the abovementioned financial contributions but also introduced Italian citizenship as a requirement for accessing such welfare provisions. According to the complainant, the abovementioned legislation unlawfully discriminated between Italian and EU citizens.
<b>Main reasoning / argumentation</b> (max. 500 chars)	According to the Ordinary Court of Trieste, the abovementioned national and regional legislative provisions were in breach of the principle of equal treatment of all EU citizens as set out in Articles 18 and 20, paragraph 2 of TFEU, Articles 21 and 34, paragraph 3 of the EU Charter of Fundamental Rights, and Article 7, paragraph 2 of Regulation (EU) No. 492/2011. As a matter of fact, the provisions introducing and governing a social benefit aimed at supporting disadvantaged people regularly living in Italy set out selective criteria discriminating between Italian and EU citizens. Such discrimination is also prohibited by Directive 2000/43/EC, implemented in Italy through Legislative Decree No. 215/2003.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The decision is relevant because it stressed that welfare provisions aimed at supporting disadvantaged people should be granted according to a need-based criterion and not on the grounds of nationality. Moreover, the principle of equal treatment between Italian and EU citizens was reasserted.
<b>Results (e.g. sanctions) and key</b>	The court upheld the complaint, ruling that the subject concerned was entitled to access the abovementioned social provisions. It

<b>consequences or implications of the case</b> (max. 500 chars)	<p>furthermore ruled that the subject concerned was to receive compensation for the resources she had been deprived of.</p>
<b>Key quotations in original language and translated into English with reference details</b> (max. 500 chars)	<p><i>“Le disposizioni impugnate, laddove a parità di situazioni anagrafiche e di livello di reddito posseduto e quindi di situazioni di difficoltà economica, dispongono l’esclusione del sostegno a soggetti comunitari che esercitando il diritto di libera circolazione si trovano legalmente in Italia, creano una discriminazione diretta a loro danno fondata sul criterio della nazionalità; pertanto, in ragione della direttiva comunitaria n. 2000/43/CE del 29.6.00 attuata in Italia tramite il decreto legislativo n. 215/03 secondo cui esiste discriminazione diretta ogni qual volta una persona per la razza ed origine etnica in cui si trova è trattata meno favorevolmente di quanto sia stata o sarebbe stata trattata altra in situazione analoga, compete ai ricorrenti la tutela di rimozione e risarcimento prevista dalla legge.”</i></p> <p><i>“Inasmuch as the challenged provisions – in case of people featuring a similar family situation or income level, and consequently experiencing similar conditions of economic distress – prevent the provision of welfare support to EU citizens who, based on their right to free movement, regularly live in Italy, they create direct discrimination to their detriment on the grounds of nationality; consequently, in compliance with Directive 2000/43/EC implemented in Italy through Legislative Decree No. 215/2003, according to which direct discrimination occurs when a person – because of his/her race or ethnic origin – is treated less favourably than another person has been or would be treated in a comparable situation, the complainants are required to repeal the discriminatory provisions and to compensate the subject concerned in accordance with applicable legislation.”</i></p>
<b>Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.</b>	<p>Yes, it has. The court referred to Articles 21 and 34, paragraph 3 of the EU Charter of Fundamental Rights.</p>