

C-237/94 O'Flynn [1996] ECR I-02617

Facts: National legislation rendered eligibility for a burial allowance granted by the state dependent on the place of burial, and specifically, the burial taking place in the UK. CThe applicant contended that this was discriminatory.

Held: The British rule was indirectly discriminatory. In particular, the Court said that unless objectively justified and proportionate to the aim pursued, a provision of national law, even if applicable irrespective of nationality, must be regarded as indirectly discriminatory, and hence not complying with the equality of treatment prescribed by Article 7(2), if it was intrinsically liable to affect migrant workers more than national workers and if there was a consequent risk that it would place the former at a particular disadvantage.