

C-1/05 Yunying Jia v Migrationsverket [2007]

Facts: The applicant was a Chinese national who joined her son, also a Chinese national, living with his German wife in Sweden. She had sought to obtain a residence permit on the basis that she had a relationship with a Union citizen and was financially dependent on her son and daughter-in-law. Her application was rejected on the ground that inadequate evidence of financial dependence had been supplied.

A reference was made to establish what conditions members of the family of a Community national had to prove to be entitled to a residence permit in the EU.

Held: To be dependent, one had to prove that a situation arose as a result of a factual situation of the applicant making her dependent on the material support of that family member. Furthermore, the need for material support would have to have existed in the State of origin of those relatives or the State from which they had come at the time when they applied to join the Community national.

It was within the purview of the Member States to require evidence of such dependence, but in so doing the Member State would have to guarantee both the basic freedoms and the effectiveness of the directives on the free movement of persons so that the exercise by citizens of the European Union and members of their family of the right to reside in the territory of any Member State would be facilitated. Therefore, the Member State could not specify a restrictive form of evidence to be adduced to prove dependence.