

### **Case C-224/02 Pusa [2004]**

**Facts:** The applicant was a Finnish national, who, upon retirement, settled in Spain. He was in receipt of an invalidity pension in Finland which was payable in his bank account there. As the applicant paid income tax in Spain, his gross pension was subject to an attachment under a double tax treaty.

He appealed on the basis that Art. 20 TFEU on the right to move and reside stemming from the status of EU citizen should preclude this effect.

**Held:** The Court reiterated the adage that Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy within the scope *ratione materiae* of the Treaty the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for (Case C-184/99 *Grzelczyk* [2001] ECR I-6193).

This was complemented by the principle of non-discrimination, which meant that a citizen of the Union must be granted in all Member States the same treatment in law as that accorded to the nationals of those Member States who find themselves in the same situation (following Case C-224/98 *D'Hoop* [2002] ECR I-6191).

Therefore, any national law placing nationals at a disadvantage simply because they exercised their freedom to move and to reside in another Member State would give rise to inequality of treatment, contrary to the principles which underpin the status of citizen of the Union, that is, the guarantee of the same treatment in law in the exercise of the citizen's freedom to move.

Therefore, in principle the applicant's tax treatment could not be different, but national law could create mechanisms for obtaining the same result as long as those mechanisms would work in both Member States.