Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

13 June 2024 * [i]

(Reference for a preliminary ruling – Common policy on asylum and subsidiary protection – Directive 2011/95/EU – Article 12 – Exclusion from being a refugee – Person registered with the United Nations Relief and Works Agency (for Palestine Refugees in the Near East) (UNRWA) – Conditions for that person to be entitled *ipso facto* to the benefits of Directive 2011/95/EU – Cessation of UNRWA's protection or assistance – Article 4 – General situation prevailing in a sector of UNRWA's area of operations – Individual assessment of relevant elements – Directive 2013/32/EU – Article 40 – Subsequent application for international protection – New elements – Elements already examined in the final decision on the previous application)

In Case C-563/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Administrativen sad Sofia-grad (Administrative Court, Sofia City, Bulgaria), made by decision of 9 August 2022, received at the Court on 22 August 2022, in the proceedings

SN,

LN,

v

Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite,

THE COURT (Fourth Chamber),

composed of C. Lycourgos, President of the Chamber, O. Spineanu-Matei, J.-C. Bonichot, S. Rodin and L.S. Rossi (Rapporteur), Judges,

Advocate General: N. Emiliou,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the Bulgarian Government, by T. Mitova, acting as Agent,

* Language of the case: Bulgarian.

– the European Commission, by A. Azéma, J. Hottiaux and I. Zaloguin, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 11 January 2024,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 12(1)(a) of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9), Article 40 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60), and Article 19 of the Charter of Fundamental Rights of the European Union ('the Charter').

2 The request has been made in proceedings between, on the one hand, SN and LN and, on the other hand, the Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite (Deputy Chairperson of the State Agency for Refugees, Bulgaria) concerning the latter's rejection of SN's and LN's application to be granted refugee status or, failing that, subsidiary protection.

Legal context

International law

The Geneva Convention

3 The Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (*United Nations Treaty Series*, Vol. 189, p. 150, No 2545 (1954)), entered into force on 22 April 1954. It was supplemented and amended by the Protocol Relating to the Status of Refugees, concluded in New York on 31 January 1967, which entered into force on 4 October 1967 ('the Geneva Convention').

4 Article 1(D) of the Geneva Convention states:

'This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees [('the HCR')] protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.'

UNRWA

5 United Nations General Assembly Resolution 302 (IV) of 8 December 1949, concerning assistance to Palestine refugees, established the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

6 UNRWA's area of operations covers five sectors, namely the Gaza Strip, the West Bank, Jordan, Lebanon and Syria.

7 United Nations General Assembly Resolution 74/83 of 13 December 2019, concerning assistance to Palestine refugees, provides:

'The General Assembly,

…

Acknowledging the essential role that [UNRWA] has played for over 65 years since its establishment in ameliorating the plight of the Palestine refugees through the provision of education, health, relief and social services and ongoing work in the areas of camp infrastructure, microfinance, protection and emergency assistance,

…

Taking note also of the report of the Commissioner-General of 31 May 2019 submitted pursuant to paragraph 57 of the report of the Secretary-General, and expressing concern regarding the severe financial crisis of [UNRWA] and the negative implications for the continued delivery of core programmes to the Palestine refugees in all fields of operation,

…

Expressing grave concern at the especially difficult situation of the Palestine refugees under occupation, including with regard to their safety, well-being and socioeconomic living conditions,

Expressing grave concern in particular at the grave humanitarian situation and socioeconomic conditions of the Palestine refugees in the Gaza Strip, and underlining the importance of emergency and humanitarian assistance and urgent reconstruction efforts,

…

1. Notes with regret that repatriation or compensation of the refugees, as provided for in paragraph 11 of General Assembly resolution 194 (III) [of 11 December 1948, on the principles for achieving a final settlement and the return of Palestinian refugees to their homes], has not yet been effected, and that, therefore, the situation of the Palestine refugees continues to be a matter of grave concern and the Palestine refugees continue to require assistance to meet basic health, education and living needs;

…

3. Affirms the necessity for the continuation of the work of [UNRWA] and the importance of its unimpeded operation and its provision of services, including emergency assistance, for the well-being, protection and human development of the Palestine refugees and for the stability of the region, pending the just resolution of the question of the Palestine refugees;

4. Calls upon all donors to continue to strengthen their efforts to meet the anticipated needs of [UNRWA], including with regard to increased expenditures and needs arising from conflicts and instability in the region and the serious socioeconomic and humanitarian situation, particularly in the Occupied Palestinian Territory, and those needs mentioned in recent emergency, recovery and reconstruction appeals and plans for the Gaza Strip and in the regional crisis response plans to address the situation of Palestine refugees in the Syrian Arab Republic and those Palestine refugees who have fled to countries in the region;

…

7. Decides to extend the mandate of [UNRWA] until 30 June 2023, without prejudice to the provisions of paragraph 11 of General Assembly resolution 194 (III) [of 11 December 1948, on the principles for achieving a final settlement and the return of Palestinian refugees to their homes].'

8 By Resolution 77/123 of the General Assembly of the United Nations of 12 December 2022, on the Assistance to Palestine refugees, the mandate of UNRWA was extended until 30 June 2026.

9 In the light of the mission entrusted to it, UNRWA must be regarded as an agency of the United Nations, separate from the HCR, providing protection and assistance within the meaning of Article 1(D) of the Geneva Convention.

European Union law

Directive 2011/95

10 Recital 18 of Directive 2011/95 states:

'The "best interests of the child" should be a primary consideration of Member States when implementing this Directive, in line with the 1989 United Nations Convention on the Rights of the Child. In assessing the best interests of the child, Member States should in particular take due account of the principle of family unity, the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity.'

11 Article 2 of that directive, entitled 'Definitions', provides:

'For the purposes of this Directive the following definitions shall apply:

…

(d) "refugee" means a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 does not apply;

…'

12 Entitled 'Assessment of facts and circumstances', Article 4 of that directive provides:

'1. Member States may consider it the duty of the applicant to submit as soon as possible all the elements needed to substantiate the application for international protection. In cooperation with the applicant, it is the duty of the Member State to assess the relevant elements of the application.

2. The elements referred to in paragraph 1 consist of the applicant's statements and all the documentation at the applicant's disposal regarding the applicant's age, background, including that of relevant relatives, identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes, travel documents and the reasons for applying for international protection.

3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:

(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied;

(b) the relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm;

…'

13 Entitled 'Exclusion', Article 12 of the same directive is worded as follows:

'1. A third-country national or a stateless person is excluded from being a refugee if:

(a) he or she falls within the scope of Article 1(D) of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the [HCR]. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, those persons shall *ipso facto* be entitled to the benefits of this Directive;

(b) he or she is recognised by the competent authorities of the country in which he or she has taken up residence as having the rights and obligations which are attached to the possession of the nationality of that country, or rights and obligations equivalent to those.

2. A third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that:

(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;

(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.

3. Paragraph 2 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.'

14 Entitled 'Serious harm', Article 15 of Directive 2011/95 provides:

'Serious harm consists of:

(a) the death penalty or execution; or

(b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or

(c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.'

15 Entitled 'General rules', Article 20 of the directive provides, in paragraph 3 thereof:

'When implementing this Chapter, Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.'

16 Entitled 'Protection from refoulement', Article 21 of that directive provides, in paragraph 1 thereof:

'Member States shall respect the principle of *non-refoulement* in accordance with their international obligations.'

Directive 2013/32

17 Entitled 'Definitions', Article 2 of Directive 2013/32 provides:

'For the purposes of this Directive:

…

(e) "final decision" means a decision on whether the third-country national or stateless person be granted refugee or subsidiary protection status by virtue of Directive 2011/95/EU and which is no longer subject to a remedy within the framework of Chapter V of this Directive, irrespective of whether such remedy has the effect of allowing applicants to remain in the Member States concerned pending its outcome;

…

(q) "subsequent application" means a further application for international protection made after a final decision has been taken on a previous application, including cases where the applicant has explicitly withdrawn his or her application and cases where the determining authority has rejected an application following its implicit withdrawal in accordance with Article 28(1).'

18 Entitled 'Basic principles and guarantees', Chapter II of that directive contains Articles 6 to 30 of the directive. Entitled 'Requirements for the examination of applications', Article 10 of that directive contains paragraph 3, which is worded as follows:

'Member States shall ensure that decisions by the determining authority on applications for international protection are taken after an appropriate examination. To that end, Member States shall ensure that:

(a) applications are examined and decisions are taken individually, objectively and impartially;

(b) precise and up-to-date information is obtained from various sources, such as [the European Asylum Support Office ('the EASO')] and UNHCR and relevant international human rights organisations, as to the general situation prevailing in the countries of origin of applicants and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions;

…'

19 Entitled 'Inadmissible applications', Article 33 of that directive provides, in paragraph 2(d) thereof:

'Member States may consider an application for international protection as inadmissible only if:

…

(d) the application is a subsequent application, where no new elements or findings relating to the examination of whether the applicant qualifies as a beneficiary of international protection by virtue of Directive [2011/95] have arisen or have been presented by the applicant'.

20 Entitled ‘Subsequent application’, Article 40 of the same directive provides:

‘1. Where a person who has applied for international protection in a Member State makes further representations or a subsequent application in the same Member State, that Member State shall examine these further representations or the elements of the subsequent application in the framework of the examination of the previous application or in the framework of the examination of the decision under review or appeal, in so far as the competent authorities can take into account and consider all the elements underlying the further representations or subsequent application within this framework.

2. For the purpose of taking a decision on the admissibility of an application for international protection pursuant to Article 33(2)(d), a subsequent application for international protection shall be subject first to a preliminary examination as to whether new elements or findings have arisen or have been presented by the applicant which relate to the examination of whether the applicant qualifies as a beneficiary of international protection by virtue of Directive [2011/95].

3. If the preliminary examination referred to in paragraph 2 concludes that new elements or findings have arisen or been presented by the applicant which significantly add to the likelihood of the applicant qualifying as a beneficiary of international protection by virtue of Directive [2011/95], the application shall be further examined in conformity with Chapter II. Member States may also provide for other reasons for a subsequent application to be further examined.

…’

21 Entitled ‘The right to an effective remedy’, Article 46 of Directive 2013/32 provides, in paragraph 3 thereof:

‘In order to comply with paragraph 1, Member States shall ensure that an effective remedy provides for a full and *ex nunc* examination of both facts and points of law, including, where applicable, an examination of the international protection needs pursuant to Directive [2011/95], at least in appeals procedures before a court or tribunal of first instance.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

22 SN and her minor child, LN, who are both stateless persons of Palestinian origin, left the city of Gaza in July 2018 and stayed, first, in Egypt for 45 days, then in Türkiye for seven months, before illegally entering Bulgaria by transiting through Greece, with KN, who is SN’s husband and LN’s father.

23 On 22 March 2019, SN and LN lodged a first application for international protection before the Bulgarian authorities. That application was based on the instability in the Gaza Strip, the lack of decent living conditions, and the almost permanent situation of armed conflict, by reason either of rocket firefrom Israel or tensions between Fatah and Hamas. It was also stated that KN’s life had been threatened by incessant bombing attacks on his workplace, that SN could not envisage giving birth to other children in such an environment, and that her house, which was close to a Hamas police station, was regularly threatened by rocket fires from Israel.

24 In that first application, SN and LN did not mention that they were registered with UNRWA.

25 By decision of 5 July 2019, the Chairperson of the Darzhavna agentsia za bezhantsite (State Agency for Refugees, Bulgaria; 'the DAB') rejected that application on the grounds that, first of all, SN and LN had not been forced to leave the Gaza Strip by reason of a real risk of torture, inhuman or degrading treatment, death penalty or execution, or other serious threats, and they were not at risk of facing such threats if they were to return to the Gaza Strip, next, the situation in the Gaza Strip could not be assimilated to that of an armed conflict such as that at issue in the case which gave rise to the judgment of 17 February 2009, *Elgafaji* (C-465/07, EU:C:2009:94), and, lastly, SN and LN could have stayed in the first safe country, namely Egypt, or even in Türkiye, and, in fact, they had come to Bulgaria only to benefit from better economic conditions.

26 Upon exhaustion of domestic remedies, that decision became final.

27 On 21 August 2020, SN and LN lodged a second application for international protection. As part of that application, SN and LN produced a letter from the HCR, dated 18 August 2020, attesting to their registration with UNRWA and relied on the second sentence of Article 12(1)(a) of Directive 2011/95 with a view to *ipso facto* claiming refugee status.

28 In support of that application, SN and LN produced several documents allegedly testifying to the dire conditions in which UNRWA operates in the Gaza Strip, particularly since the suspension, in 2018, of annual funding from the United States of America, which led to the reduction in aid that their family initially received, making it insufficient to provide them with dignified living conditions. In those circumstances, SN and LN considered that protection or assistance from UNRWA should be considered to have ceased for them.

29 To explain her departure from the Gaza Strip and her inability to return there, SN relied on the deterioration of the security situation in the region, the interruption of the payment of her salary, the lack of work and the high rate of unemployment, the worsening of the situation linked to the COVID-19 pandemic, the establishment of a curfew, the closure of schools and the ban imposed on residents by Hamas from leaving their homes, the regular tensions between Hamas and Israel as well as the fact that the house in which she lived, located near a Hamas police station, was threatened by regular rocket fire from Israel. Furthermore, during an attack in 2014, the roof of that house was allegedly damaged and SN and LN moved in with SN's paternal grandfather and lived there for almost two years, before returning to that house. In addition, SN's parents moved to Sweden in 2008 and her intention was to join them.

30 By a decision of 28 August 2020, the DAB considered that that subsequent application for international protection was admissible, on the grounds that the production of proof of SN's registration with UNRWA should be considered as an essential new circumstance concerning her personal situation and country of origin.

31 By decision of 14 May 2021, the Deputy Chairperson of the DAB, however, rejected that subsequent application as being unfounded on the grounds that, in particular, in the context of such an application, the examination is limited to the existence, relevance and merits of any new element concerning the personal situation of the applicant or that of the country of origin. First of all, the registration with UNRWA does not constitute a new circumstance relevant to the personal situation of SN and LN, since they were already entitled to the assistance of UNRWA and decided to renounce it by voluntarily leaving the area of operations of that body. Next, there was no reason to believe that they would not benefit from that assistance again if they returned to that area. Lastly, the allegations concerning the general situation in the Gaza Strip did not make it possible to establish a personal element of persecution or threat of death relevant for the granting of

refugee status. SN had not been forced to leave her country of origin nor did she allege that she had been subjected to discriminatory or other adverse measures giving rise to a risk of persecution.

32 SN and LN challenged that decision before the Administrativen sad Sofia-grad (Administrative Court, Sofia City, Bulgaria), which is the referring court.

33 In support of their action, they claim, first, that KN had, on 26 March 2018, received a summons from the Hamas police, on the grounds of his participation in peaceful demonstrations against Hamas. Such a summons allegedly exposed KN to the risk of being subjected to torture, or even the risk of being killed, which forced KN and his family to leave UNRWA's area of operations. Secondly, essential services and humanitarian operations carried out by UNRWA were threatened by repeated financial shortfalls. In that context, SN's family received only minimal aid, consisting only of food products. Thirdly, SN alleges an objective impossibility of return to the Gaza Strip due to the restrictions imposed by Israel. Fourthly, the best interests of the child LN should be taken into account. Fifthly, they argued that, with 80% of Gaza residents dependent on humanitarian aid, their transfer to the Gaza Strip would place them in conditions of extreme material deprivation in breach of Article 4 of the Charter.

34 The deputy Chairperson of the DAB reiterated that the assistance from which SN and LN benefited did not cease for reasons beyond their control, since they had voluntarily renounced it by leaving UNRWA's area of operations.

35 In that context, the referring court considers that the reasons why SN and LN left the Gaza Strip, which is one of the sectors of UNRWA's area of operations, are decisive in assessing whether their situation falls within of the scope of the second sentence of Article 12(1)(a) of Directive 2011/95.

36 In the first place, that court questions the elements which may, under Article 40(1) of Directive 2013/32, be taken into consideration in the context of examining the merits of a subsequent application. In that regard, it notes that SN and LN relied, in support of their subsequent application, on their registration with UNRWA and argued that the circumstances already referred to in support of their previous application made it possible to conclude that the protection or assistance of UNRWA had ceased in their respect, within the meaning of the second sentence of Article 12(1)(a) of Directive 2011/95.

37 First, the referring court has doubts whether Article 33(2)(d) of Directive 2013/32, according to which subsequent applications which are not based on new elements are inadmissible, precludes the taking into account of the reasons for which SN and LN left the Gaza Strip.

38 Secondly, that court considers that, in order to be able to examine those reasons, in the light of the new element, which is constituted by the proof of registration of SN and LN with UNRWA, it is necessary to interpret the requirement, laid down in Article 40(1), that the Member State examines the subsequent application in the context of the examination of the previous application or of the 'decision under review or appeal' referred to in that provision.

39 In the second place, as regards the interpretation of the second sentence of Article 12(1)(a) of Directive 2011/95, the referring court notes that SN and LN have not alleged a risk of persecution, but ask for the general situation in the Gaza Strip to be assessed as a reason for

departure and impossibility of return to the UNRWA's area of operations, a situation which would make it possible to conclude that protection or assistance of UNRWA ceased for reasons beyond their control.

40 In this context, that court asks whether the return to the Gaza Strip of SN and LN would not place them in a situation of extreme material poverty within the meaning of the judgment of 19 March 2019, *Jawo* (C-163/17, EU:C:2019:218), that is to say, a situation that would not allow them to meet their most basic needs, such as, inter alia, food, personal hygiene and a place to live, and that would undermine their physical or mental health or put them in a state of degradation incompatible with human dignity. It considers that it is also necessary to take into account the general situation in the Gaza Strip in the light of Article 19 of the Charter, which implements the principle of non-refoulement and which prohibits inhuman and degrading treatment.

41 In those circumstances, the Administrativen sad Sofia-grad (Administrative Court, Sofia City) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Does it follow from Article 40(1) of Directive [2013/32] that, where a subsequent application for international protection lodged by a stateless applicant of Palestinian origin on the basis of his or her registration with UNRWA is admissible, the obligation on the competent authorities laid down in that provision to take into account and consider all the elements underlying the further representations in the subsequent application also includes, in the circumstances of the case, the obligation to consider the reasons for which the person left UNRWA's area of operations, in addition to the new elements or circumstances which are the subject of the subsequent application, when that obligation is interpreted in conjunction with the second sentence of Article 12(1)(a) of Directive [2011/95]? Does fulfilment of that obligation depend on the fact that the reasons for which the person left UNRWA's area of operations had already been examined in the proceedings relating to the first application for [international] protection, which resulted in a final decision refusing such protection but in which the applicant neither invoked nor proved his or her registration with UNRWA?

(2) Does it follow from the second sentence of Article 12(1)(a) of Directive 2011/95 that the phrase "when such protection or assistance has ceased for any reason" in that provision applies to a stateless person of Palestinian origin who was registered with UNRWA and was receiving assistance in Gaza City from UNRWA in the form of food, health services and educational services, without there being any evidence of a personal threat to that person, who left Gaza City voluntarily and lawfully, having regard to the information available in the case:

– assessment of the general situation at the time of departure as constituting an unprecedented humanitarian crisis, associated with shortages of food, drinking water, health services and medicines, as well as water and electricity supply issues, the destruction of buildings and infrastructure, and unemployment;

– UNRWA's difficulties in sustaining the provision of aid and services in Gaza, including in the form of food and health services, due to a significant deficit in UNRWA's budget and a steady increase in the number of persons in need of the agency's assistance, [and the circumstance that] the general situation in Gaza is undermining UNRWA's activities?

Must that question be answered differently for the sole reason that the applicant is a vulnerable person within the meaning of Article 20(3) of that directive, namely a minor child?

(3) Must the second sentence of Article 12(1)(a) of Directive 2011/95 be interpreted as meaning that an applicant for international protection who is a Palestinian refugee registered with UNRWA may return to the UNRWA area of operations which he or she had left, specifically to Gaza City, where, at the time of the hearing of his or her action against a refusal decision before the court:

– there is no certainty that that person will be able to obtain from UNRWA the necessary food, health services, medicines and healthcare and education;

– the information on the general situation in Gaza City and on UNRWA, according to the UNHCR Position on Returns to Gaza of March 2022, was assessed as constituting justification for leaving UNRWA's area of operations and for non-return, as well as the fact that, if the applicant were to return, he or she would be able to stay there in dignified living conditions?

For the purpose of applying and complying with the principle of non-refoulement under Article 21(1) of Directive 2011/95, in conjunction with Article 19 of the Charter, does the personal situation of an applicant for international protection come within the scope of the interpretation given in [point 4 of the operative part] of the judgment of 19 March 2019, *Jawo* (C-163/17, EU:C:2019:218), concerning extreme material poverty under Article 4 of the [Charter], in the light of the situation in the Gaza Strip at the time in question, and in so far as the applicant in question is dependent on UNRWA's assistance as regards food, health services, medicines and healthcare?

On the basis of the information regarding the general situation in Gaza City and regarding UNRWA, must the question as to return to Gaza City be answered differently for the sole reason that the person applying for protection is a minor child, with a view to safeguarding the best interests of the child and guaranteeing his or her well-being and social development, protection and safety?

(4) Depending on the answer to the third question:

In the present case, must the second sentence of Article 12(1)(a) of Directive 2011/95, and in particular the phrase "those persons shall *ipso facto* be entitled to the benefits of this Directive" in that provision, be interpreted as meaning that:

– the principle of non-refoulement under Article 21(1) of Directive 2011/95, in conjunction with Article [19] of the Charter, is applicable in relation to a person applying for protection who is a stateless Palestinian registered with UNRWA because, if returned to Gaza City, the person would be exposed to the risk of inhuman and degrading treatment, as he or she could suffer extreme material poverty, and comes within the scope of Article 15[(b)] of Directive 2011/95 for the purpose of being granted subsidiary protection;

or

– that provision, in relation to a person applying for protection who is a stateless Palestinian registered with UNRWA, requires recognition by that Member State of refugee status within the meaning of Article 2[d] of that directive and the granting to that person of

refugee status by operation of law, in so far as he or she does not come within the scope of Article 12(1)(b) or [Article 12](2) and (3) of that directive, in accordance with [point 2 of the] operative part of the judgment of 19 December 2012, *Abed El Karem El Kott and Others* (C-364/11, EU:C:2012:826), without account being taken of the circumstances relating to that person which are relevant to the grant of subsidiary protection under Article 15[(b)] of Directive 2011/95?'

Consideration of the questions referred

The first question

42 By its first question, the referring court asks, in essence, whether Article 40 of Directive 2013/32, read in conjunction with the second sentence of Article 12(1)(a) of Directive 2011/95, must be interpreted as meaning that the authority ruling on the merits of a subsequent application for international protection is required to examine the factual elements submitted in support of that application, including when those facts have already been assessed by the authority which definitively rejected a first application for international protection.

43 In order to answer that question, it should be borne in mind, in the first place, that, under Article 2(e) and (q) of Directive 2013/32, a subsequent application is a new application for international protection submitted after a final decision – that is to say a decision which is no longer amenable to an appeal within the framework of Chapter V of that directive – has been taken on a previous application.

44 Consequently, a subsequent application constitutes, as such, an application for international protection, and, as the Advocate General points out, in essence, in point 45 of his Opinion, independently of the legal basis on which such a subsequent application is made.

45 In the present case, it is apparent from the file available to the Court that the first application for international protection submitted by SN and LN was rejected on the grounds that the elements produced in support of that application did not make it possible to demonstrate that SN and LN had left the Gaza Strip for fear of being persecuted within the meaning of Article 2(d) of Directive 2011/95.

46 It was only after the decision taken on that first application became final that SN and LN submitted their new application for international protection, which must therefore be considered as a subsequent application within the meaning of Article 2(q) of Directive 2013/32.

47 In the second place, the subsequent application from SN and LN was deemed admissible by a decision of 28 August 2020, since the new element on which it was based related to the proof of registration of those stateless persons of Palestinian origin with UNRWA.

48 In the third place, where the conditions of admissibility of a subsequent application are satisfied, that application must be examined on the merits, and this, as Article 40(3) of Directive 2013/32 states, is to be done in conformity with Chapter II of that directive, which contains the basic principles and safeguards applicable to applications for international protection (judgment of 8 February 2024, *Bundesrepublik Deutschland (Admissibility of a subsequent application)*, C-216/22, EU:C:2024:122, paragraph 33 and the case-law cited).

49 Article 40(3) of Directive 2013/32 therefore does not draw any distinction between a first application for international protection and a subsequent application as regards the nature of the elements or findings capable of demonstrating that the applicant qualifies as a beneficiary of international protection by virtue of Directive 2011/95. The assessment of the facts and circumstances submitted in support of those applications must, in both cases, be carried out in accordance with Article 4 of Directive 2011/95 (see, to that effect, judgment of 10 June 2021, *Staatssecretaris van Justitie en Veiligheid (New elements or findings)*, C-921/19, EU:C:2021:478, paragraph 40).

50 That article 4 defines, in its paragraph 2, elements needed to substantiate an application for international protection, which correspond to 'the applicant's statements and all the documentation at the applicant's disposal regarding the applicant's age, background, including that of relevant relatives, identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes, travel documents and the reasons for applying for international protection'.

51 Article 4(3)(a) and (b) of Directive 2011/95 requires, for its part, an individual assessment of the application, taking into account, in particular, all relevant facts as they relate to the country of origin at the time of taking a decision on the application and the relevant documentation presented by the applicant, including information on whether the applicant has been or may be subject to persecution or serious harm.

52 Furthermore, as the Advocate General points out, in essence, in point 55 of his Opinion, Article 10 of Directive 2013/32, which is precisely part of Chapter II thereof, provides, in paragraph 3(a), that applications for international protection are examined individually, objectively and impartially.

53 It follows that the authority ruling on the merits of a subsequent application cannot limit itself to assessing only the new facts or findings submitted in support of its admissibility, but must take into account all of the elements produced by the applicant in support of that subsequent application under Article 4(1) of Directive 2011/95 (judgment of 10 June 2021, *Staatssecretaris van Justitie en Veiligheid (New elements or findings)*, C-921/19, EU:C:2021:478, paragraph 44).

54 The fact that an element in support of a subsequent application has already been assessed in the context of the examination of a previous application for international protection which gave rise to a decision of refusal which has become final cannot prevent the authority ruling on the subsequent application from re-examining such an element, in the light of the circumstances highlighted by the new elements or findings which made it possible to consider that application admissible, with a view to ruling on the merits of the latter application.

55 It is only at the stage of examining the admissibility of the subsequent application that the competent national authority must confine itself to ascertaining, first, whether there are, in support of that application, elements or findings which were not examined in the context of the decision taken on the previous application which is now final and, secondly, whether those new elements or findings alone significantly increase the probability that the applicant will qualify as a beneficiary of international protection (see, to that effect, judgment of 10 June 2021, *Staatssecretaris van Justitie en Veiligheid (New elements or findings)*, C-921/19, EU:C:2021:478, paragraph 50). Moreover, even when examining the admissibility of a subsequent application, those new elements or findings cannot be assessed in a completely independent manner from the context in which those new elements or findings occur, including when that context has not been not been modified since the final rejection of the previous application.

56 That interpretation is all the more necessary when the new element submitted in support of the subsequent application does not constitute a mere factual circumstance, but is likely to trigger the application of a rule of law different from that on the basis of which the competent authority has ruled on the previous application, such as Article 12(1)(a) of Directive 2011/95, which concerns cases of UNRWA's cessation of protection or assistance. In such a situation, the elements already examined during the previous procedure must be reassessed in the light of the characteristics of that new legal basis.

57 Lastly, taking into account the doubts of the referring court in that regard, it should be pointed out that that interpretation is in no way called into question by Article 40(1) of Directive 2013/32. As the European Commission notes, in so far as it applies to subsequent applications, that provision targets the very specific situation in which national law allows, exceptionally, the procedure following which the previous application was definitively rejected to be reopened by reason of a subsequent application.

58 In the light of the foregoing, the answer to the first question is that Article 40 of Directive 2013/32, read in conjunction with the second sentence of Article 12(1)(a) of Directive 2011/95, must be interpreted as meaning that the authority ruling on the merits of a subsequent application for international protection is required to examine the factual elements submitted in support of that application, including when those facts have already been assessed by the authority which definitively rejected a first application for international protection.

The second and third questions

59 By its second and third questions, which must be examined together, the referring court asks, in essence, whether the second sentence of Article 12(1)(a) of Directive 2011/95 must be interpreted as meaning that UNRWA's protection or assistance, from which an applicant for international protection, a stateless person of Palestinian origin, benefits, must be considered to have ceased, within the meaning of that provision, when that body finds itself unable, for whatever reason, including by reason of the general situation in the sector of the area of operation of that body, in which that stateless person had his or her habitual residence, to ensure to that stateless person, taking into account, where applicable, his or her state of vulnerability, dignified living conditions, consistent with its mission, without his or her being required to demonstrate that he or she is specifically affected by that general situation by reason of elements specific to his or her personal situation. In that context, the referring court asks at what point the assessment of whether UNRWA's protection or assistance must be regarded to have ceased must be carried out. In addition, that court asks whether the fact that the same stateless person is a minor child is relevant for the purposes of that assessment.

60 At the outset, it should be noted that the first sentence of Article 12(1)(a) of Directive 2011/95 provides that a third-country national or a stateless person is excluded from being a refugee if 'he or she falls within the scope of Article 1D of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the [HCR]'.

61 The first paragraph of Article 1D of the Geneva Convention provides that the convention does not apply to persons who 'are at present receiving' protection or assistance 'from organs or agencies of the United Nations other than the [HCR]'.

62 Specifically, any person, such as SN or LN, who is registered with UNRWA, is eligible to receive protection and assistance from that agency in the interests of his or her well-being as a refugee (judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 29 and the case-law cited).

63 On account of that specific refugee status established in those territories of the Near East for Palestinians, persons registered with UNRWA are, in principle, by virtue of the first sentence of Article 12(1)(a) of Directive 2011/95, which corresponds to the first paragraph of Article 1(D) of the Geneva Convention, excluded from refugee status in the European Union (judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 30 and the case-law cited).

64 However, it follows from the second sentence of Article 12(1)(a) of Directive 2011/95, which corresponds to the second paragraph of Article 1(D) of the Geneva Convention, that when UNRWA's protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, those persons shall *ipso facto* be entitled to the benefits of Directive 2011/95 (judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 31 and the case-law cited).

65 It is common ground that the fate of the beneficiaries of the protection or assistance provided by UNRWA has not been definitively settled until now, as follows from the successive resolutions of the United Nations General Assembly.

66 With the benefit of those preliminary clarifications, it is important, in the first place, to point out that the second sentence of Article 12(1)(a) of Directive 2011/95 corresponds, in essence, to Article 12(1)(a) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ 2004 L 304, p. 12), with the result that the case-law concerning the latter provision is relevant to the interpretation of the former (judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 33 and the case-law cited).

67 In that regard, the Court has already clarified that the fact alone that the person concerned has departed from UNRWA's area of operations cannot, regardless of the reasons for the departure, end the exclusion from refugee status laid down in the first sentence of Article 12(1)(a) of that directive and that, consequently, mere absence from such an area or a voluntary decision to leave it cannot be regarded as cessation of UNRWA's protection or assistance within the meaning of the second sentence of Article 12(1)(a) of that directive (judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 34 and the case-law cited).

68 Nevertheless, the Court has held that the cessation of the protection or assistance provided by an organ or agency, such as UNRWA, can result not only from the abolition itself of that organ or agency, but also from the fact that it is impossible for that organ or agency to carry out its mission (judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 35 and the case-law cited).

69 Thus, if the person concerned has been forced to leave UNRWA's area of operations for reasons unconnected with that person's will, such a situation may lead to a finding that the assistance from which that person benefited has ceased within the meaning of the second sentence of Article 12(1)(a) of Directive 2011/95 (judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 36 and the case-law cited).

70 That interpretation is consistent with the objective of that provision, which is, inter alia, to ensure that Palestine refugees, as such, continue to receive protection by affording them effective protection or assistance and not simply by guaranteeing the existence of a body or agency whose task is to provide such assistance or such protection until their position has been definitely settled in accordance with the relevant resolutions of the General Assembly of the United Nations (judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 37 and the case-law cited).

71 Thus, the second sentence of Article 12(1)(a) of Directive 2011/95 applies where it becomes evident, based on an assessment, on an individual basis, of all the relevant evidence, that the personal safety of the stateless person of Palestinian origin concerned is at serious risk and that it is impossible for UNRWA, whose assistance was requested by that person, to guarantee that the living conditions of that individual would be compatible with its mission, and that person is forced to leave UNRWA's area of operations owing to circumstances beyond his or her control and independent or his or her volition (judgments of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 86; of 3 March 2022, *Secretary of State for the Home Department (Refugee status of a stateless person of Palestinian origin)*, C-349/20, EU:C:2022:151, paragraph 50; and of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraphs 38 and 44).

72 In this regard, it is important to specify, first, that the condition relating to the personal state of serious insecurity of the applicant implies that that applicant must be personally confronted with serious insecurity in the sector of UNRWA's area of operations concerned, without however requiring that that state of serious personal insecurity presents particular characteristics, specific to that applicant, or is caused due to the particular situation of the latter. As for the impossibility for UNRWA to provide the applicant with living conditions consistent with its mission, this is the case when that organisation finds itself, for whatever reason, including by reason of the general situation prevailing in that sector, unable to provide the applicant with dignified living conditions and minimum safety (see, to that effect, judgment of 13 January 2021, *Bundesrepublik Deutschland (Refugee status of a stateless person of Palestinian origin)*, C-507/19, EU:C:2021:3, paragraph 54).

73 The individual assessment of those conditions presupposes, moreover, that due account is taken of the applicant's specific situation and degree of vulnerability (see, to that effect, judgment of 16 July 2020, *Addis*, C-517/17, EU:C:2020:579, paragraph 54). In that regard, particular attention must be given to any element allowing the consideration that the stateless person of Palestinian origin concerned has specific essential needs linked to a state of vulnerability and, in particular, to the possible circumstance that that stateless person is a minor, the best interests of that child must then be taken into account under Article 24(2) of the Charter. To that end, the competent national authority must, as is apparent, in particular, from recital 18 of Directive 2011/95, take due account, inter alia, of the principle of family unity, the minor's well-being and social development and considerations relating to his or her safety and security.

74 Furthermore, the fact that UNRWA's protection or assistance is at a lower level than that provided to the stateless person of Palestinian origin could enjoy if he or she were granted refugee status in a Member State is not sufficient to conclude that that person has been forced to leave UNRWA's area of operations or that he or she could not return there (see, to that effect, judgment of 5 October 2023, *OFPRA (Refugee status of a Palestinian stateless person)*, C-294/22, EU:C:2023:733, paragraph 45).

75 In the second place, as the Advocate General highlights in point 63 of his Opinion, it is for the competent national authorities and courts to ascertain not only whether the departure from UNRWA's area of operations of persons applying for refugee status pursuant to the second sentence of Article 12(1)(a) of Directive 2011/95 may be justified by reasons beyond their control and independent of their volition, which thus prevented them from receiving UNRWA's protection or assistance, but also whether those persons are, at the time when the competent administrative authorities examine an application for granting refugee status or at the time when the competent court rules on the appeal against a decision refusing to grant such status, prevented from receiving such protection or assistance due to the alleged deteriorating situation in the area of operations concerned for reasons beyond their control and independent of their volition (see, to that effect, judgment of 3 March 2022, *Secretary of State for the Home Department (Refugee status of a stateless person of Palestinian origin)*, C-349/20, EU:C:2022:151, paragraphs 57 and 58).

76 First, the question of whether UNRWA's protection or assistance has ceased vis-à-vis the stateless person of Palestinian origin must be assessed by the competent administrative authority on the basis of an individual assessment of all relevant elements under Article 4 of Directive 2011/95. It follows from Article 4(3)(a) of Directive 2011/95 that, in order to decide on an application for international protection, account must be taken of all relevant facts as regards the country of origin 'at the time of taking a decision on the application'. Secondly, by virtue of Article 46(3) of Directive 2013/32, Member States are required to order their national law in such a way that the processing of the appeals referred to in that provision includes a 'full and *ex nunc*' examination, which presupposes that the competent court take into account in particular all the elements in order to make an up-to-date assessment of the case at hand (see, to that effect, judgment of 3 March 2022, *Secretary of State for the Home Department (Refugee status of a stateless person of Palestinian origin)*, C-349/20, EU:C:2022:151, paragraphs 54, 55 and 61).

77 In that regard, it is again important to note that Article 10(3)(b) of Directive 2013/32 requires Member States to ensure that precise and up-to-date information is obtained from various sources, such as the EUAA and the HCR as well as international organisations competent in human rights matters, on the general situation existing in the applicants' country of origin or, if they are stateless persons, in the country in which they had their habitual residence.

78 It follows from the above that a stateless person of Palestinian origin who has applied for UNRWA's assistance falls within the second sentence of Article 12(1)(a) of Directive 2011/95 when it turns out, on the basis of an individual and up-to-date assessment of all relevant elements, that that stateless person concerned would be found, if he or she were to return to the sector of UNRWA's area of operations in which he or she had her habitual residence, in a personal state of serious insecurity, taking into account, where applicable, his or her state of vulnerability, and that UNRWA finds itself, for whatever reason, including by reason of the general situation prevailing in that sector, unable to ensure dignified living conditions and minimum security for that stateless person, taking into account, where applicable, the specific needs linked to his or her state of vulnerability.

79 Thus, a stateless person of Palestinian origin must be considered as being unable to return to the sector of UNRWA's area of operations in which he or she had her habitual residence in the event that the impossibility, for whatever reason, to receive UNRWA's protection or assistance places that stateless person at real risk of being exposed to living conditions which do not ensure that, under UNRWA's mission, his or her essential needs in terms of health, education and subsistence are met, taking into account, where applicable, his or her specific essential needs due to his or her belonging to a group of people being characterised by a reason of vulnerability, such as age.

80 In the third place, to the extent that the referring court emphasises that, in the dispute in the main proceedings, SN and LN did not invoke reasons relating to their individual situation in order to demonstrate that UNRWA's protection or assistance had ceased in their regard, it is important to note, first, that it is for the referring court to take into account not only the elements invoked in support of that application, but also the elements which the authority, which decided to reject that application, took or could have taken into account as well as the elements arising after that decision, having regard to the obligation which that authority had, under Article 4(1) of Directive 2011/95, to cooperate actively with the applicant in order to determine and supplement the relevant elements of his or her application (see, to that effect, judgments of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 113, and of 3 March 2022, *Secretary of State for the Home Department (Refugee status of a stateless person of Palestinian origin)*, C-349/20, EU:C:2022:151, paragraph 64).

81 Secondly, the referring court further emphasises that the general situation in Gaza actually affects UNRWA's ability to provide assistance and effective protection to stateless persons of Palestinian origin found in that sector. In that context, it refers, in particular, to the European Parliament resolution of 19 April 2018 on the situation in the Gaza Strip (OJ 2019 C 390, p. 108), from which it appears that the situation in the Gaza Strip has 'resulted in a deteriorating, unprecedented humanitarian crisis in the area' and the document, entitled 'UNHCR Position Paper on returns to Gaza', dated March 2022, in which the HCR states that the deterioration of the general situation in that city is a factor to take into account when examining applications for international protection. In particular, in view of the indications of serious violations and abuses of internationally recognised human rights and humanitarian law, as well as the continuing instability in that sector, the HCR is said to have called on States to allow all civilians fleeing the Gaza Strip to enter their territories and respect the principle of non-refoulement. The HCR expressly emphasises that the situation in that sector may constitute an objective reason for Palestinian refugees to leave it, explaining therefore that UNRWA's protection or assistance must be considered to have ceased for them.

82 Since then, as the Advocate General notes, in essence, in particular in point 64 of his Opinion, both the living conditions in the Gaza Strip and UNRWA's capacity to fulfil its mission have experienced an unprecedented deterioration due to the consequences of the events of 7 October 2023.

83 It is for the referring court to determine, in the light, in particular, of the information referred to in paragraph 77 of this judgment, whether UNRWA cannot, for whatever reason, including by reason of the general situation prevailing in the Gaza Strip, ensure to any stateless person of Palestinian origin who has applied for assistance and remains in that sector the possibility of staying there with dignified living conditions and minimum security.

84 This would particularly be the case if, in the sector at issue of UNRWA's area of operations, any stateless person of Palestinian origin would find himself or herself, irrespective of his or her wishes and personal choices, in a situation of extreme material poverty that does not allow him or her to meet his or her most basic needs, such as, inter alia, food, personal hygiene and a place to live, and that undermines his or her physical or mental health or puts him or her in a state of degradation incompatible with human dignity and, therefore, with Article 4 of the Charter (see, in that regard, judgment of 19 March 2019 *Jawo*, C-163/17, EU:C:2019:218, paragraph 92).

85 Lastly, if the referring court were to conclude that, having regard to the general conditions of life prevailing in the Gaza Strip at the time of its ruling, UNRWA's protection or assistance in that sector of its area of operations must be considered as having ceased vis-à-vis SN or LN, it would still be open to it to continue its individual examination of their applications in order to examine whether SN or LN falls within one of the grounds for exclusion set out in Article 12(1)(b) or Article 12(2) and (3) of Directive 2011/95.

86 If this were not the case, those stateless people of Palestinian origin should be automatically granted refugee status (see to that effect, judgment of 19 December 2012, *Abed El Karem El Kott and Others*, C-364/11, EU:C:2012:826, paragraph 81).

87 In the light of the above, the answer to the second and third questions is that the second sentence of Article 12(1)(a) of Directive 2011/95 must be interpreted as meaning that UNRWA's protection or assistance, from which an applicant for international protection, a stateless person of Palestinian origin, benefits, must be considered to have ceased within the meaning of that provision when, (i) that body finds itself unable, for whatever reason, including by reason of the general situation in the sector of that body's area of operations, in which that stateless person had his or her habitual residence, to ensure to that stateless person, taking into account, where applicable, his or her state of vulnerability, dignified living conditions, consistent with its mission, without him or her being required to demonstrate that he or she is specifically targeted by that general situation by reason of elements specific to his or her personal situation, and (ii) that stateless person of Palestinian origin would find himself or herself, if he or she were to return to that sector, in a state of serious insecurity, taking into account, where applicable, his or her state of vulnerability, since the administrative and judicial authorities are required to carry out an individual assessment of each application for international protection based on that provision, within the framework of which the age of the person concerned may be relevant. UNRWA's assistance or protection must, in particular, be considered to have ceased vis-à-vis the applicant when, for whatever reason, that body is no longer able to provide to any stateless person of Palestinian origin staying in the sector of that body's area of operations where that applicant had his or her habitual residence, dignified living conditions or minimum security conditions. Whether UNRWA's protection or assistance must be considered to have ceased must be assessed at the time when that stateless person left the sector of UNRWA's area of operations in which he or she had his or her habitual residence, at that when the competent administrative authorities rule on his or her application for international protection or at that when the competent court rules on any appeal directed against the decision rejecting that application.

The fourth question

88 By its fourth question, the referring court asks, in essence, whether the expression 'those persons will be able *ipso facto* to rely on this Directive', appearing in the second sentence of Article 12(1)(a) of Directive 2011/95, must be interpreted as meaning that, first, the persons concerned, if they were to be returned to one of the sectors of UNRWA's area of operations and that, in that sector,

they were exposed to a risk of inhuman and degrading treatment, should *ipso facto* be considered as falling within the prohibition of refoulement provided for in Article 21(1) of Directive 2011/95, read in conjunction with Article 19 of the Charter, as well as the scope of application of Article 15(b) of Directive 2011/95 relating to the granting of subsidiary protection, or that, second, those persons should *ipso facto* benefit from refugee status without taking into account their own circumstances, relevant for the granting of subsidiary protection.

89 As the referring court has not explained, in its order for reference, the reasons why it requests the interpretation of those provisions of EU law and the link it establishes between those provisions and the national legislation applicable to the dispute which submitted to it (judgment of 14 September 2023, *Vinal*, C-820/21, EU:C:2023:667, paragraph 98 and the case-law cited), it must be stated that the fourth question is inadmissible.

Costs

90 Since those proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

1. **Article 40 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, read in conjunction with the second sentence of Article 12(1)(a) of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted,**

   must be interpreted as meaning that the authority ruling on the merits of a subsequent application for international protection is required to examine the factual elements submitted in support of that application, including when those facts have already been assessed by the authority which definitively rejected a first application for international protection.

2. **The second sentence of Article 12(1)(a) of Directive 2011/95**

   must be interpreted as meaning that the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)'s protection or assistance, from which an applicant for international protection, a stateless person of Palestinian origin, benefits, must be considered to have ceased within the meaning of that provision when, (i) that body finds itself unable, for whatever reason, including by reason of the general situation in the sector of that body's area of operations, in which that stateless person had his or her habitual residence, to ensure to that stateless person, taking into account, where applicable, his or her state of vulnerability, dignified living conditions, consistent with its mission, without him or her being required to demonstrate that he or she is specifically targeted by that general situation by reason of elements specific to his or her personal situation, and (ii) that stateless person of Palestinian origin would find himself or herself, if he or she were to return to that sector, in a state of serious

insecurity, taking into account, where applicable, his or her state of vulnerability, since the administrative and judicial authorities are required to carry out an individual assessment of each application for international protection based on that provision, within the framework of which the age of the person concerned may be relevant. UNRWA's assistance or protection must, in particular, be considered to have ceased vis-à-vis the applicant when, for whatever reason, that body is no longer able to provide to any stateless person of Palestinian origin staying in the sector of that body's area of operations where that applicant had his or her habitual residence, dignified living conditions or minimum security conditions. Whether UNRWA's protection or assistance must be considered to have ceased must be assessed at the time when that stateless person left the sector of UNRWA's area of operations in which he or she had his or her habitual residence, at that when the competent administrative authorities rule on his or her application for international protection or at that when the competent court rules on any appeal directed against the decision rejecting that application.

[Signatures]

[i] The wording of paragraph 87 and point 2 of the operative part of this document has been amended since it was first put online.