Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

22 February 2022 *

(Reference for a preliminary ruling – Common policy on asylum – Common procedures for granting and withdrawing international protection – Directive 2013/32/EU – Article 33(2)(a) – Inadmissibility of an application for international protection lodged in a Member State by a third-country national who has obtained refugee status in another Member State, where the minor child of that third-country national, who is a beneficiary of subsidiary protection status, resides in the first Member State – Charter of Fundamental Rights of the European Union – Article 7 – Right to respect for family life – Article 24 – Best interests of the child – No infringement of Articles 7 and 24 of the Charter of Fundamental Rights due to the inadmissibility of the application for international protection – Directive 2011/95/EU – Article 23(2) – Obligation on the Member States to ensure the family unity of beneficiaries of international protection is maintained)

In Case C-483/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d'État (Belgium), made by decision of 30 June 2020, received at the Court on 29 September 2020, in the proceedings

XXXX

v

Commissaire général aux réfugiés et aux apatrides,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, A. Arabadjiev, A. Prechal, K. Jürimäe, C. Lycourgos, S. Rodin, I. Jarukaitis and J. Passer (Rapporteur), Presidents of Chambers, J.-C. Bonichot, M. Safjan, F. Biltgen, P.G. Xuereb, N. Piçarra, L.S. Rossi and A. Kumin, Judges,

Advocate General: P. Pikamäe,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the Belgian Government, by M. Jacobs, M. Van Regemorter and C. Pochet, acting as Agents,

* Language of the case: French.

– the Italian Government, by G. Palmieri, acting as Agent, and by W. Ferrante, avvocato dello Stato,

– the European Commission, by A. Azéma and L. Grønfeldt, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 30 September 2021,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 18 and 24 of the Charter of Fundamental Rights of the European Union ('the Charter'), Articles 2, 20, 23 and 31 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), and of Article 25(6) and Article 33(2)(a) 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).

2 The request has been made in the context of a dispute between XXXX and the Commissaire général aux réfugiés et aux apatrides (Commissioner General for Refugees and Stateless Persons, Belgium; 'the CGRA') concerning the refusal to grant an application for international protection lodged in Belgium.

Legal context

International law

3 Paragraph 2 of Section A of Article 1 of 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)), as amended by the Protocol relating to the Status of Refugees, concluded in New York on 31 January 1967 ('the Geneva Convention'), states:

'For the purposes of [the Geneva Convention], the term "refugee" shall apply to any person who:

…

(2) owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" means each of the countries of which he is a national, and a person must not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.'

European Union law

Directive 2011/95

4 Recitals 8, 9, 12, 18 and 39 of Directive 2011/95 state:

'(8) In the European Pact on Immigration and Asylum, adopted on 15 and 16 October 2008, the European Council noted that considerable disparities remain between one Member State and another concerning the grant of protection and the forms that protection takes and called for new initiatives to complete the establishment of a Common European Asylum System, provided for in the Hague Programme, and thus to offer a higher degree of protection.

(9) In the Stockholm Programme, the European Council reiterated its commitment to the objective of establishing a common area of protection and solidarity, based on a common asylum procedure and a uniform status, in accordance with Article 78 of the Treaty on the Functioning of the European Union (TFEU), for those granted international protection, by 2012 at the latest.

…

(12) The main objective of this Directive is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection, and, on the other hand, to ensure that a minimum level of benefits is available for those persons in all Member States.

…

(18) 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.

…

(39) While responding to the call of the Stockholm Programme for the establishment of a uniform status for refugees or for persons eligible for subsidiary protection, and with the exception of derogations which are necessary and objectively justified, beneficiaries of subsidiary protection status should be granted the same rights and benefits as those enjoyed by refugees under this Directive, and should be subject to the same conditions of eligibility.'

5 Article 2 of that directive, headed 'Definitions', provides:

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

…

(j) "family members" means, in so far as the family already existed in the country of origin, the following members of the family of the beneficiary of international protection who are present in the same Member State in relation to the application for international protection:

– the spouse of the beneficiary of international protection or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals,

– the minor children of the couples referred to in the first indent or of the beneficiary of international protection, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law,

– the father, mother or another adult responsible for the beneficiary of international protection whether by law or by the practice of the Member State concerned, when that beneficiary is a minor and unmarried;

…'

6 Chapter VII of Directive 2011/95, headed 'Content of international protection', includes Articles 20 to 35 thereof.

7 Article 20 of that directive, headed 'General rules', provides in paragraph 5:

'The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this Chapter that involve minors.'

8 Article 23 of that directive, headed 'Maintaining family unity', provides:

'1. Member States shall ensure that family unity can be maintained.

2. Member States shall ensure that family members of the beneficiary of international protection who do not individually qualify for such protection are entitled to claim the benefits referred to in Articles 24 to 35, in accordance with national procedures and as far as is compatible with the personal legal status of the family member.

3. Paragraphs 1 and 2 are not applicable where the family member is or would be excluded from international protection pursuant to Chapters III and V.

4. Notwithstanding paragraphs 1 and 2, Member States may refuse, reduce or withdraw the benefits referred to therein for reasons of national security or public order.

5. Member States may decide that this Article also applies to other close relatives who lived together as part of the family at the time of leaving the country of origin, and who were wholly or mainly dependent on the beneficiary of international protection at that time.'

Directive 2013/32

9 Recital 43 of Directive 2013/32 is worded as follows:

'Member States should examine all applications on the substance, i.e. assess whether the applicant in question qualifies for international protection in accordance with [Directive 2011/95], except where this Directive provides otherwise, in particular where it can reasonably be assumed that another country would do the examination or provide sufficient protection. In particular, Member States should not be obliged to assess the substance of an application for international protection where a first country of asylum has granted the applicant refugee status or otherwise sufficient protection and the applicant will be readmitted to that country.'

10 Article 33 of that directive, headed 'Inadmissible applications', provides:

'1. In addition to cases in which an application is not examined in accordance with Regulation (EU) No 604/2013 [of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013 L 180, p. 31)], Member States are not required to examine whether the applicant qualifies for international protection in accordance with [Directive 2011/95] where an application is considered inadmissible pursuant to this Article.

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

(a) another Member State has granted international protection;

…'

Belgian law

11 The first subparagraph of paragraph 3 of Article 57(6) of the loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étranger (Law of 15 December 1980 on access to the territory, residence, establishment and removal of foreign nationals) (*Moniteur belge* of 31 December 1980, p. 14584), which transposes Article 33(2)(a) of Directive 2013/32, is worded as follows:

'The [CGRA] may declare an application for international protection inadmissible where:

…

3. the applicant is already a beneficiary of international protection in another Member State of the European Union;

…'

Facts of the dispute in the main proceedings and the question referred for a preliminary ruling

12 After being granted refugee status in Austria on 1 December 2015, the appellant in the main proceedings moved to Belgium at the beginning of 2016 to join his two daughters, one of whom was a minor. On 14 December 2016, the two daughters were granted subsidiary protection in Belgium. The Belgian State acknowledged that the appellant in the main proceedings had parental responsibility for the minor child, but also that he did not have a right of residence in that State.

13 On 14 June 2018, the appellant in the main proceedings submitted an application for international protection in Belgium. On 11 February 2019, the CGRA refused that application on the ground that it was inadmissible on the basis of the first subparagraph of paragraph 3 of Article 57(6) of the Law of 15 December 1980 on access to the territory, residence, establishment and removal of foreign nationals, on the ground that the person concerned had already been granted international protection by another Member State.

14 By a judgment of 8 May 2019, the Conseil du contentieux des étrangers (Council for asylum and immigration proceedings, Belgium) dismissed the action brought by the appellant in the main proceedings against that decision.

15 On 21 May 2019, the appellant in the main proceedings brought an appeal on a point of law against that judgment before the referring court. He argues that respect for the principles of family unity and of the best interests of the child preclude the Belgian State, in the circumstances of the present case, from exercising its option to declare his application for international protection to be inadmissible. He maintains that the fact that he has been granted refugee status in another Member State does not preclude him from relying on the principle of family unity to contest that decision where that status does not authorise him to live with his minor child in the Member State in which the latter has been granted subsidiary protection.

16 According to the CGRA, the principle of family unity does not apply in the present case since the appellant in the main proceedings is not deprived of protection any more than his daughters are. Moreover, the best interests of the child cannot in isolation justify an application for protection being held to be admissible.

17 The referring court is uncertain whether, in circumstances in which the principles of family unity and of the best interests of the child are relied on, EU law must be interpreted as precluding a Member State from making use of the option provided for in Article 33(2)(a) of Directive 2013/32 which allows it to declare an application for international protection inadmissible.

18 In those circumstances, the Conseil d'État (Council of State, Belgium) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Does EU law, essentially Articles 18 and 24 of the [Charter], Articles 2, 20, 23 and 31 of [Directive 2011/95], and Article 25(6) of [Directive 2013/32], preclude a Member State, when applying the powers conferred by Article 33(2)(a) of [Directive 2013/32], from rejecting an application for international protection as inadmissible because of protection already granted by another Member State, where the applicant is the father of an unaccompanied minor child who has been granted protection in the first Member State, he is the sole parent of the nuclear family present by the child's side, he lives with the child and has been conferred parental responsibility

for the child by that Member State? Do the principle of family unity and that requiring compliance with the best interests of the child not require, on the contrary, protection to be granted to that parent by the State where his child has been granted protection?'

Procedure before the Court

19 By letter of 10 December 2020, the Belgian Government, first, informed the Court that the appellant in the main proceedings had submitted a new application for international protection on 4 November 2020 and, second, informed the Court of its uncertainties as to the relevance, in those circumstances, of continuing to pursue the reference for a preliminary ruling.

20 After the Court Registry was informed of the above, it requested the referring court to submit its observations in that regard by letter of 20 January 2021.

21 By letter of 11 February 2021, the referring court informed the Court that it wished to pursue the reference for a preliminary ruling.

Consideration of the question referred

22 By its question, the referring court seeks to ascertain, in essence, whether Article 33(2)(a) of Directive 2013/32, read in the light of Article 7 and Article 24(2) of the Charter, must be interpreted as precluding a Member State from exercising the option available to it under that provision to refuse to grant an application for international protection on the ground that it is inadmissible because the applicant has already been granted refugee status by another Member State, where that applicant is (i) the father of a child who is an unaccompanied minor who has been granted subsidiary protection in the first Member State, (ii) the only parent of the nuclear family physically present, (iii) lives with the minor child, parental responsibility for the minor child having been conferred on him by that Member State.

23 In that regard, it should be noted that, under Article 33(1) of Directive 2013/32, in addition to cases in which an application is not examined in accordance with Regulation No 604/2013, Member States are not required to examine whether the applicant qualifies for international protection in accordance with Directive 2011/95 where an application is considered inadmissible pursuant to that article. Article 33(2) of Directive 2013/32 sets out an exhaustive list of situations in which the Member States may consider an application for international protection to be inadmissible (judgment of 19 March 2020, *Bevándorlási és Menekültügyi Hivatal (Tompa)*, C-564/18, EU:C:2020:218, paragraph 29 and the case-law cited). Those situations include the situation, provided for in point (a) of the latter provision, in which international protection has already been granted by another Member State.

24 It is apparent from the wording itself of Article 33(2)(a) of Directive 2013/32 that Member States are not obliged to verify whether the applicant fulfils the conditions to claim international protection under Directive 2011/95 where such protection is already provided in another Member State.

25 Moreover, that interpretation is consonant with the purpose of Article 33(2) of Directive 2013/32, which consists, as the Court has previously found, in relaxing the obligation of the Member State responsible for examining an application for international protection by defining the cases in

which such an application is considered to be inadmissible (judgment of 19 March 2020, *Bevándorlási és Menekültügyi Hivatal (Tompa)*, C-564/18, EU:C:2020:218, paragraph 30 and the case-law cited).

26 The referring court is uncertain, however, whether there are any exceptions to the option available to Member States under that provision not to verify whether the applicant satisfies the conditions to be satisfied in order to claim international protection, such exceptions potentially being justified, in essence, by the right to respect for family life and the need to take into account the best interests of the child, enshrined in Article 7 and Article 24(2) of the Charter respectively.

27 In that regard, it should be noted, in the first place, that EU law is based on the fundamental premiss that each Member State shares with all the other Member States, and recognises that they share with it, a set of common values on which the European Union is founded, as stated in Article 2 TEU. That premiss implies and justifies the existence of mutual trust between the Member States that those values will be recognised, and therefore that the EU law that implements them will be respected, and that their national legal systems are capable of providing equivalent and effective protection of the fundamental rights recognised by the Charter, including Articles 1 and 4 of the Charter, which enshrine one of the fundamental values of the European Union and its Member States (judgment of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraph 83 and the case-law cited), namely human dignity, which includes, inter alia, the prohibition of inhuman or degrading treatment.

28 The principle of mutual trust between the Member States is, under EU law, of fundamental importance as regards, in particular, the area of freedom, security and justice which the European Union constitutes and which, in accordance with Article 67(2) TFEU, ensures the absence of internal border controls and frames a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. In that field, the principle of mutual trust requires each of those States, save in exceptional circumstances, to consider all the other Member States to be complying with EU law and particularly with the fundamental rights recognised by EU law (see, to that effect, judgment of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraph 84 and the case-law cited).

29 Accordingly, in the context of the Common European Asylum System, it must be presumed that the treatment of applicants for international protection in each Member State complies with the requirements of the Charter, the Geneva Convention and the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950. That applies, in particular, to the application of Article 33(2)(a) of Directive 2013/32, which constitutes, in the context of the Common European Asylum System established by that directive, an expression of the principle of mutual trust (judgment of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraph 85 and the case-law cited).

30 It is not however inconceivable that that system may, in practice, experience major operational problems in a given Member State, which give rise to a substantial risk that applicants for international protection may, when transferred to that Member State, be treated in a manner incompatible with their fundamental rights (see, to that effect, judgment of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraph 86 and the case-law cited).

31 It follows from paragraphs 29 and 30 of the present judgment that the authorities of a Member State cannot exercise the option available to them under Article 33(2)(a) of Directive 2013/32 when they have come to the conclusion, on the basis of information that is objective, reliable, specific and properly updated and having regard to the standard of protection of fundamental rights guaranteed by EU law, that there are, in the Member State in which the third-country national already enjoys international protection, deficiencies, which may be systemic or generalised, or which may affect certain groups of people and where, having regard to such deficiencies, there are substantial grounds for believing that that national would face a real risk of being subjected to inhuman or degrading treatment, within the meaning of Article 4 of the Charter (see, to that effect, judgments of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraphs 85 to 90, and of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraph 92).

32 However, Article 33(2)(a) of Directive 2013/32 does not preclude a Member State from exercising the option, available under that provision, to refuse an application for the grant of refugee status as being inadmissible on the ground that the applicant has already been granted international protection by another Member State, where the living conditions that that applicant could be expected to encounter as the beneficiary of international protection in that other Member State would not expose him or her to a substantial risk of suffering inhuman or degrading treatment, within the meaning of Article 4 of the Charter. The fact that the beneficiaries of such protection do not receive, in that Member State, any subsistence allowance, or that such allowance as they receive is markedly inferior to that in other Member States, though they are not treated differently from nationals of that Member State, does not allow it to be inferred that Article 4 of the Charter has been infringed, unless, because of the applicant's particular vulnerability, irrespective of his or her wishes and personal choices, he or she would be 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 (see, to that effect, judgment of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraphs 89, 90 and 101).

33 In the present case, and subject to verification by the referring court, which alone has jurisdiction to rule on the facts of the dispute in the main proceedings, it is not apparent from the request for a preliminary ruling that that could be the case as regards the living conditions of the appellant in the main proceedings in Austria. Without prejudice to such verification, it appears rather from all the material in the file before the Court that the reason for the application for international protection made in Belgium by the appellant in the main proceedings is not a need for international protection as such, which is already satisfied in Austria, but his wish to ensure family unity in Belgium.

34 Therefore, the situation of the appellant in the main proceedings is not such as to require the Member States, in line with the case-law arising from the judgment of 19 March 2019, *Ibrahim and Others* (C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219), to refrain, by way of exception, from exercising the option available to them under Article 33(2)(a) of Directive 2013/32 to refuse an application for international protection as inadmissible.

35 In the second place, however, it is necessary to determine whether Article 7 and Article 24(2) of the Charter preclude a Member State from exercising the option, available to it under Article 33(2)(a) of Directive 2013/32, to reject an application for international protection as inadmissible on the ground that the applicant has already been granted such protection by another Member State in the circumstances described in paragraph 22 above.

36 Infringement of a provision of EU law conferring a substantive right on beneficiaries of international protection which does not result in an infringement of Article 4 of the Charter, even if established, does not prevent the Member States from exercising the option available to them under Article 33(2)(a) of Directive 2013/32 (see, to that effect, judgment of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraph 92). In that regard, unlike protection against any inhuman or degrading treatment enshrined in Article 4 of the Charter, the rights guaranteed by Articles 7 and 24 of the Charter are not absolute in nature and may therefore be subject to restrictions under the conditions set out in Article 52(1) of the Charter.

37 Such an interpretation makes it possible to ensure observance of the principle of mutual trust on which the European asylum system is based and of which Article 33(2)(a) constitutes an expression, as has been pointed out in paragraph 29 above.

38 Furthermore, the referring court also refers in its request for a preliminary ruling to Article 23 of Directive 2011/95 and, in particular, to paragraph 2 thereof.

39 Even though that provision does not provide for the extension, as a derived right, of refugee status or subsidiary protection status to the family members of a person to whom that status is granted – with the result that, in the present case, the fact that the two daughters of the appellant in the main proceedings benefit from subsidiary protection does not mean that he should, on that ground alone, benefit from international protection in that Member State on that basis – that provision expressly requires Member States to ensure that family unity is maintained, by establishing a certain number of benefits in favour of family members of a beneficiary of international protection (see, to that effect, judgment of 9 November 2021, *Bundesrepublik Deutschland (Retention of family unity)*, C-91/20, EU:C:2021:898, paragraph 36 and the case-law cited). The grant of those benefits, which are referred to in Articles 24 to 35 of Directive 2011/95 and include, inter alia, a right of residence, requires three conditions to be satisfied, namely, first, that the person is a family member within the meaning of Article 2(j) of that directive, second, that that family member does not individually qualify for international protection and, third, that it is compatible with the personal legal status of the family member concerned.

40 First, the fact that a parent and his or her minor child have had different migration paths before reuniting in the Member State in which the child has international protection does not prevent the parent from being regarded as a member of the family of that beneficiary within the meaning of Article 2(j) of Directive 2011/95, provided that that parent was present in the territory of that Member State before a decision was taken on the application for international protection of his or her child (see, to that effect, judgment of 9 September 2021, *Bundesrepublik Deutschland (Family member)*, C-768/19, EU:C:2021:709, paragraphs 15, 16, 51 and 54).

41 Second, with regard to the objective of Article 23(2) of Directive 2011/95 which consists of ensuring that the family unity of a beneficiary of international protection is maintained, and, moreover, taking into account the fact that the provisions of Directive 2011/95 must be interpreted in the light of Article 7 and Article 24(2) and (3) of the Charter (judgment of

9 September 2021, *Bundesrepublik Deutschland (Family member)*, C-768/19, EU:C:2021:709, paragraph 38), it must be found that a third-country national whose application for international protection is inadmissible and has therefore been refused in the Member State in which his or her minor child benefits from international protection owing to that national's refugee status in another Member State does not individually qualify for international protection in the first Member State, which gives rise to that national's right to be granted the benefits under Articles 24 to 35 of Directive 2011/95 in that Member State.

42 Third, under Article 23(2) of Directive 2011/95, the grant of such benefits must, however, be compatible with the legal status of the third-country national concerned.

43 In that regard, it is apparent from the judgment of 9 November 2021, *Bundesrepublik Deutschland (Retention of family unity)* (C-91/20, EU:C:2021:898, paragraph 54) that that proviso relates to the verification of whether the national concerned, who is a family member of a person benefiting from international protection, does not already have the right in the Member State which granted that international protection to better treatment than that resulting from the benefits referred to in Articles 24 to 35 of Directive 2011/95. Subject to verification by the referring court, that does not appear to be the case in the present instance since the grant of refugee status in a Member State does not, in principle, result in the person benefiting from that international protection receiving better treatment, in another Member State, than the treatment resulting from the benefits under Articles 24 to 35 of Directive 2011/95 in that other Member State.

44 In the light of all of the findings above, the answer to the question referred is that Article 33(2)(a) of Directive 2013/32, read in the light of Article 7 and Article 24(2) of the Charter, must be interpreted as not precluding a Member State from exercising the option available to it under that provision to refuse to grant an application for international protection on the ground that it is inadmissible because the applicant has already been granted refugee status by another Member State, where that applicant is the father of a child who is an unaccompanied minor who has been granted subsidiary protection in the first Member State, without prejudice, nevertheless, to the application of Article 23(2) of Directive 2011/95.

Costs

45 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national 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 (Grand Chamber) hereby rules:

Article 33(2)(a) 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 the light of Article 7 and Article 24(2) of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding a Member State from exercising the option available to it under that provision to refuse to grant an application for international protection on the ground that it is inadmissible because the applicant has already been granted refugee status by another Member State, where that applicant is the father of a child who is an unaccompanied minor who has been granted subsidiary protection in the first Member State, without prejudice, nevertheless, to the application of Article 23(2) 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.

[Signatures]