Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

18 June 2024*

(Reference for a preliminary ruling – Area of freedom, security and justice – Directive 2011/95/EU – Article 21(1) – Directive 2013/32/EU – Article 9(2) and (3) – Definitive grant of refugee status by a Member State – Refugee residing in another Member State after that grant – Request for extradition submitted by the third State of origin of that refugee to the Member State of residence – Effect of the decision granting refugee status on the extradition procedure concerned – Article 18 and Article 19(2) of the Charter of Fundamental Rights of the European Union – Protection of that refugee against the extradition sought)

In Case C-352/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Oberlandesgericht Hamm (Higher Regional Court, Hamm, Germany), made by decision of 19 May 2022, received at the Court on 1 June 2022, in the proceedings relating to the extradition of

A.,

other party:

Generalstaatsanwaltschaft Hamm,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, L. Bay Larsen, Vice-President, A. Arabadjiev, K. Jürimäe (Rapporteur), E. Regan, T. von Danwitz, Z. Csehi and O. Spineanu-Matei, Presidents of Chambers, M. Ilešič, J.-C. Bonichot, L.S. Rossi, I. Jarukaitis, A. Kumin, M.L. Arastey Sahún and M. Gavalec, Judges,

Advocate General: J. Richard de la Tour,

Registrar: D. Dittert, Head of Unit,

having regard to the written procedure and further to the hearing on 12 June 2023,

after considering the observations submitted on behalf of:

– A., by H.-J. Römer and U. Sommer, Rechtsanwälte,

– the German Government, by J. Möller and A. Hoesch, acting as Agents,

* Language of the case: German.

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

– the European Commission, by A. Azéma, S. Grünheid and J. Hottiaux, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 19 October 2023,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 9(2) and (3) 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 of Article 21(1) 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).

2 The request has been made in proceedings relating to the extradition of A., a Turkish national with refugee status in Italy and residing in Germany, following a request for extradition that was submitted to the German authorities by the Turkish authorities for the purposes of the criminal prosecution of A.

Legal context

International law

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)) ('the Geneva Convention'), entered into force on 22 April 1954. It was supplemented 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.

4 All the Member States are contracting parties to the Geneva Convention. The European Union is not, however, a contracting party to that convention.

5 Article 1(A) of that convention provides:

'For the purposes of the present 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" shall mean each of the countries of which he is a national, and a person shall 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.'

6 Article 33(1) of that convention states:

'No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.'

European Convention on Extradition

7 Article 3(1) and (2) of the European Convention on Extradition, signed in Paris on 13 December 1957, reads as follows:

'1 Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political offence or as an offence connected with a political offence.

2 The same rule shall apply if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.'

European Union law

Directive 2011/95

8 Recital 21 of Directive 2011/95 reads as follows:

'The recognition of refugee status is a declaratory act.'

9 Article 2 of that directive contains the following definitions:

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

…

(b) "beneficiary of international protection" means a person who has been granted refugee status or subsidiary protection status as defined in points (e) and (g);

…

(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;

(e) “refugee status” means the recognition by a Member State of a third-country national or a stateless person as a refugee;

…

(i) “applicant” means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

…’

10 Chapter III of Directive 2011/95, entitled ‘Qualification for being a refugee’, contains Articles 9 to 12 of that directive. Articles 11 and 12 of that directive define, respectively, the circumstances in which a third-country national or a stateless person is to cease to be a refugee and those in which a third-country national or a stateless person is to be excluded from being a refugee.

11 Articles 13 and 14 are in Chapter IV of that directive, which is entitled ‘Refugee status’.

12 Under Article 13 of that directive:

‘Member States shall grant refugee status to a third-country national or a stateless person who qualifies as a refugee in accordance with Chapters II and III.’

13 Article 14 of Directive 2011/95 concerns the ‘revocation of, ending of or refusal to renew refugee status’. That article provides:

‘1. Concerning applications for international protection filed after the entry into force 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)], Member States shall revoke, end or refuse to renew the refugee status of a third-country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body if he or she has ceased to be a refugee in accordance with Article 11.

2. Without prejudice to the duty of the refugee in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his or her disposal, the Member State which has granted refugee status shall, on an individual basis, demonstrate that the person concerned has ceased to be or has never been a refugee in accordance with paragraph 1 of this Article.

3. Member States shall revoke, end or refuse to renew the refugee status of a third-country national or a stateless person if, after he or she has been granted refugee status, it is established by the Member State concerned that:

(a) he or she should have been or is excluded from being a refugee in accordance with Article 12;

(b) his or her misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of refugee status.

4. Member States may revoke, end or refuse to renew the status granted to a refugee by a governmental, administrative, judicial or quasi-judicial body, when:

(a) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present;

(b) he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that Member State.

5. In situations described in paragraph 4, Member States may decide not to grant status to a refugee, where such a decision has not yet been taken.

6. Persons to whom paragraphs 4 or 5 apply are entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31, 32 and 33 of the Geneva Convention in so far as they are present in the Member State.'

14 Chapter VII of that directive, entitled 'Content of international protection', contains Articles 20 to 35 thereof.

15 Article 21 of that directive, entitled 'Protection from refoulement', provides in paragraph 1:

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

16 The second paragraph of Article 36 of that directive states:

'Member States shall, in liaison with the [European] Commission, take all appropriate measures to establish direct cooperation and an exchange of information between the competent authorities.'

Directive 2013/32

17 Article 9 of Directive 2013/32, entitled 'Right to remain in the Member State pending the examination of the application', provides:

'1. Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a decision in accordance with the procedures at first instance set out in Chapter III. That right to remain shall not constitute an entitlement to a residence permit.

2. Member States may make an exception only where a person makes a subsequent application referred to in Article 41 or where they will surrender or extradite, as appropriate, a person either

to another Member State pursuant to obligations in accordance with a European arrest warrant … or otherwise, or to a third country or to international criminal courts or tribunals.

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where the competent authorities are satisfied that an extradition decision will not result in direct or indirect refoulement in violation of the international and Union obligations of that Member State.'

18 Articles 44 and 45 of that directive set out the rules governing the procedure for the withdrawal of international protection. More specifically, Article 45(1) and (3) of that directive provides:

'1. Member States shall ensure that, where the competent authority is considering withdrawing international protection from a third-country national or stateless person in accordance with Article 14 or 19 of [Directive 2011/95], the person concerned enjoys the following guarantees:

(a) to be informed in writing that the competent authority is reconsidering his or her qualification as a beneficiary of international protection and the reasons for such a reconsideration; and

(b) to be given the opportunity to submit, in a personal interview in accordance with Article 12(1)(b) and Articles 14 to 17 or in a written statement, reasons as to why his or her international protection should not be withdrawn.

…

3. Member States shall ensure that the decision of the competent authority to withdraw international protection is given in writing. The reasons in fact and in law shall be stated in the decision and information on how to challenge the decision shall be given in writing.'

19 Under the second paragraph of Article 49 of Directive 2013/32:

'Member States shall, in liaison with the Commission, take all appropriate measures to establish direct cooperation and an exchange of information between the competent authorities.'

German law

20 Paragraph 6(2) of the Gesetz über die internationale Rechtshilfe in Strafsachen (IRG) (Law on international mutual legal assistance in criminal matters) of 23 December 1982 (BGBl. 1982 I, p. 2071) reads as follows:

'Extradition is not permissible where there are substantial grounds for believing that the requested person, if extradited, would be persecuted or punished on account of his or her race, religion, nationality, membership of a particular social group or political opinion, or that his or her position may be prejudiced for any of these reasons.'

21 Paragraph 6 of the Asylgesetz (AsylG) (Law on asylum) of 26 June 1992 (BGBl. 1992 I, p. 1126), in the version published on 2 September 2008 (BGBl. 2008 I, p. 1798), as last amended by Paragraph 9 of the Gesetz zur Weiterentwicklung des Ausländerzentralregisters (Law on the development of the central register of foreign nationals) of 9 July 2021 (BGBl. 2021 I, p. 2467), states:

'The decision on the application for asylum shall be binding in all matters in which recognition of entitlement to asylum or the granting of international protection within the meaning of point 2 of Paragraph 1(1) is legally relevant. This does not apply to extradition proceedings and proceedings under Paragraph 58a of the Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet (Aufenthaltsgesetz – AufenthG) [(Law on the residence, occupational activity and integration of foreign nationals in the Federal Territory)] of 30 July 2004 (BGBl. 2004 I, p. 1950).'

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

22 A. is a Turkish national of Kurdish origin. He left Türkiye in 2010.

23 By a final decision of 19 May 2010, the Italian authorities recognised A. as a refugee on the ground that he was at risk of political persecution by the Turkish authorities because of his support for the Kurdistan Workers' Party (PKK). That status is valid until 25 June 2030.

24 A. has resided in Germany since July 2019.

25 On the basis of an arrest warrant issued by a Turkish court on 3 June 2020, A. was the subject of an alert issued by the International Criminal Police Organization (Interpol) for his arrest with a view to his extradition to Türkiye for the purpose of a criminal prosecution for murder. He is accused of having fired a shot from a rifle, on 9 September 2009 in Bingöl (Türkiye), which allegedly hit his mother, following a verbal altercation with his father and brother. A.'s mother died as a result of her injuries.

26 A. was arrested in Germany on 18 November 2020 and placed in temporary detention, then in detention pending extradition until 14 April 2022.

27 By order of 2 November 2021, the Oberlandesgericht Hamm (Higher Regional Court, Hamm, Germany), which is the referring court, declared the extradition of A. to Türkiye to be admissible. The referring court found that, under German law, the Italian authorities' decision granting refugee status did not have binding effect for the purposes of the extradition procedure in Germany, but could constitute evidence in determining, for the purposes of the examination of the extradition request, whether A. faced a serious and real risk of being subject to political persecution in Türkiye. That court therefore carried out an independent examination of the extradition request on the basis of the arguments put forward by A., first, in the context of the asylum procedure conducted in Italy, with which it was able to acquaint itself following the transmission of documents relating to that procedure, and, secondly, in the context of the extradition procedure. It also took account of the guarantees given by the Turkish authorities that the criminal proceedings to be conducted following extradition would meet the requirements of a fair trial. The referring court concluded that there was no risk of political persecution and no substantial grounds for believing that that request for extradition for the

commission of an ordinary criminal offence had been made for the purpose of prosecuting or punishing A. for his political opinions or that A.'s position might, were he to be surrendered, be prejudiced for those reasons.

28 That order was set aside by the Bundesverfassungsgericht (Federal Constitutional Court, Germany), following a constitutional complaint brought by A. According to that court, the Oberlandesgericht Hamm (Higher Regional Court, Hamm) had infringed A.'s fundamental right under Article 101(1) of the Grundgesetz (German Basic Law), according to which no one may be removed from the jurisdiction of his or her lawful judge. The latter court had, contrary to the third paragraph of Article 267 TFEU, failed to bring before the Court of Justice for a preliminary ruling the novel question, that was necessary for the purpose of deciding the dispute, whether, under EU law, the final recognition by a Member State of a third-country national as a refugee is binding for the purposes of an extradition procedure conducted, in connection with a request from the third State of origin of that refugee, by the competent authority of another Member State.

29 Following the referral of the case back to the Oberlandesgericht Hamm (Higher Regional Court, Hamm) after its order was thus set aside, the referring court must again rule on the request for the extradition of A. That court points out that the question referred to in the preceding paragraph, which has not been decided by the Court of Justice, is a matter of dispute in legal literature.

30 According to one approach, it follows from Article 9(3) of Directive 2013/32 that where a person is recognised, by a final decision, as having refugee status in a Member State, extradition to a third country is no longer permissible under EU law. That interpretation is said to be supported by Articles 11, 12 and 14 of Directive 2011/95 and by Articles 44 and 45 of Directive 2013/32, which lay down rules and procedures for the cessation, exclusion and ending of refugee status. Those rules and procedures would risk being circumvented if it were possible for the authorities of one Member State to grant a request for extradition of a refugee recognised as such by the authorities of another Member State.

31 According to a second approach, the EU legislature is said to have taken the view that asylum and extradition procedures are independent of each other, so that a decision by a Member State granting refugee status to a third-country national cannot have binding effect for the purposes of an extradition procedure conducted, in connection with a request from the third State of origin of that refugee, by the competent authority of another Member State. That extradition procedure could be the first opportunity to examine the grounds for exclusion from refugee status, which could justify revocation of that status. Compliance with the principle of non-refoulement, referred to in Article 21(1) of Directive 2011/95, should nevertheless be respected.

32 The referring court prefers the second approach and, moreover, maintains the findings previously made in its order of 2 November 2021.

33 It points out that Directives 2011/95 and 2013/32 do not contain any provision for a Member State's decision granting refugee status to a third-country national to have binding effect for the purposes of an extradition procedure conducted, in connection with a request from the third State of origin of that refugee, by the competent authority of another Member State.

34 Recognition of such an effect would mean that, in the event of the discovery, during that extradition procedure, of new information justifying a different assessment of the risk of political persecution faced by the requested person, it would be necessary to wait until the authority of the

Member State that had granted refugee status had, where appropriate, withdrawn that status. This would prolong the extradition procedure, which would be incompatible with the principle of urgency, in particular where the requested person is being detained pending extradition.

35 The referring court points out, moreover, that it is consistent with the legitimate objective of preventing impunity to find that, despite the final recognition of the relevant third-country national's refugee status, his or her extradition to his or her third country of origin is permissible, in so far as that extradition is not contrary to international law or to EU law, in particular Article 18 and Article 19(2) of the Charter of Fundamental Rights of the European Union ('the Charter'). In that regard, the referring court explains that, in the absence of extradition, German law allows, in theory, for criminal proceedings to be brought against the requested person. It considers, however, that since the relevant events took place in Türkiye, such proceedings would in practice not be feasible, given the impossibility for the German prosecution authorities of obtaining evidence or examining witnesses in Türkiye.

36 In those circumstances, the Oberlandesgericht Hamm (Higher Regional Court, Hamm) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Must Article 9(2) and (3) of [Directive 2013/32], in conjunction with Article 21(1) of [Directive 2011/95], be interpreted as meaning that the final recognition of a person as a refugee within the meaning of the [Geneva Convention] in another Member State … is binding for the purposes of the extradition procedure in the Member State requested to extradite such a person on account of the obligation under EU law to interpret national law in conformity with the directives (third paragraph of Article 288 TFEU and Article 4(3) TEU), that is to say, is binding in such a way that extradition of the person to the third country or country of origin is thereby necessarily precluded until his or her recognition as a refugee has been revoked or has expired?'

Consideration of the question referred

37 By its single question, the referring court asks, in essence, whether Article 9(2) and (3) of Directive 2013/32 and Article 21(1) of Directive 2011/95 must be interpreted as meaning that, where a third-country national who has been granted refugee status in one Member State is the subject, in another Member State, on whose territory he or she resides, of an extradition request from his or her third State of origin, that other Member State is bound, in the context of the examination of that extradition request, by the decision granting that person refugee status, so that it is obliged by that decision to refuse the extradition sought.

38 As a preliminary point, it must be recalled that, in the absence of an international extradition agreement between the European Union and the third State concerned, in this case the Republic of Türkiye, the rules on extradition fall within the competence of the Member States. However, as is clear from the Court's case-law, the Member States are required to exercise that competence in accordance with EU law (see, to that effect, judgment of 2 April 2020, *Ruska Federacija*, C-897/19 PPU, EU:C:2020:262, paragraph 48).

39 Before examining the provisions specifically cited by the referring court, it must be pointed out in the first place that, pursuant to Article 13 of Directive 2011/95, Member States are to grant refugee status, within the meaning of Article 2(e) of that directive, to a third-country national or a stateless person who qualifies as a refugee in accordance with Chapters II and III of that

directive, and they do not have any discretion in that respect (see, to that effect, judgments of 24 June 2015, *T.*, C-373/13, EU:C:2015:413, paragraph 63; of 14 May 2019, *M and Others (Revocation of refugee status)*, C-391/16, C-77/17 and C-78/17, EU:C:2019:403, paragraph 89; and of 16 January 2024, *Intervyuirasht organ na DAB pri MS (Women victims of domestic violence)*, C-621/21, EU:C:2024:47, paragraph 72 and the case-law cited).

40 As can be seen from recital 21 of Directive 2011/95, the recognition by a Member State of refugee status is declaratory and not constitutive of being a refugee. It follows that, within the system introduced by that directive, a third-country national or a stateless person who satisfies those conditions is, on that basis alone, a refugee for the purposes of Article 2(d) of that directive and Article 1(A) of the Geneva Convention (see, to that effect, judgment of 14 May 2019, *M and Others (Revocation of refugee status)*, C-391/16, C-77/17 and C-78/17, EU:C:2019:403, paragraphs 85 and 86).

41 The result of formal recognition as a refugee, which the granting of refugee status constitutes, is that the refugee concerned is, under Article 2(b) of Directive 2011/95, the beneficiary of international protection for the purposes of that directive, so that he or she is entitled to all the rights and benefits laid down in Chapter VII of that directive (see, to that effect, judgment of 14 May 2019, *M and Others (Revocation of refugee status)*, C-391/16, C-77/17 and C-78/17, EU:C:2019:403, paragraph 91).

42 However, a Member State that has recognised a third-country national or a stateless person as having refugee status may, in accordance with Article 14 of Directive 2011/95, read in conjunction with Articles 44 and 45 of Directive 2013/32, be led to revoke or withdraw that refugee status, in particular if it appears that he or she has ceased to be a refugee in accordance with Article 11 of Directive 2011/95 or if he or she is or should have been excluded from being a refugee in accordance with Article 12 of Directive 2011/95.

43 In the second place, as the Common European Asylum System currently stands, the EU legislature has not yet fully achieved the objective pursued by Article 78(2)(a) TFEU, namely a uniform status of asylum for nationals of third countries, valid throughout the European Union. In particular, the EU legislature has not, at this stage, established a principle that Member States are obliged to recognise automatically the decisions granting refugee status that have been adopted by another Member State, nor has it specified the detailed arrangements for implementing such a principle (judgment of 18 June 2024, *Bundesrepublik Deutschland (Effect of a decision granting refugee status)*, C-753/22, EU:C:2024:XXX, paragraph 68).

44 Member States are thus, as EU law currently stands, free to make recognition of all of the rights relating to refugee status on their territory subject to the adoption, by their competent authorities, of a new decision granting refugee status (judgment of 18 June 2024, *Bundesrepublik Deutschland (Effect of a decision granting refugee status)*, C-753/22, EU:C:2024:XXX, paragraph 69).

45 In those circumstances, it is appropriate to determine, in the third place, whether, under EU law on international protection, a decision granting refugee status that is taken by the competent determining authority of a Member State can have binding effect for the purposes of an extradition procedure that relates to the refugee concerned and is conducted, in connection with a request from the third State of origin of that refugee, by the competent authority of another Member State, so that the latter authority must refuse to extradite that refugee because of the existence of such a decision.

46 In that context, it is necessary to take account not only of the provisions of Directives 2011/95 and 2013/32 cited by the referring court in the question referred for a preliminary ruling, but also of all the relevant provisions of EU law, including those of the Charter.

47 In order to provide a satisfactory answer to a national court which has referred a question to it, the Court of Justice may deem it necessary to consider provisions of EU law to which the national court has not referred in the text of its question (see, to that effect, judgments of 20 March 1986, *Tissier*, 35/85, EU:C:1986:143, paragraph 9, and of 2 March 2023, *PrivatBank and Others*, C-78/21, EU:C:2023:137, paragraph 35).

48 In that regard, first, according to Article 1 of Directive 2013/32, the 'purpose of [that directive] is to establish common procedures for granting and withdrawing international protection pursuant to Directive [2011/95]'.

49 Article 9 of Directive 2013/32 is in Chapter II, which is concerned with basic principles and guarantees of international protection procedures. Article 9(1) of that directive grants an applicant for international protection the right to remain on the territory of the Member State concerned during the procedure in which his or her application is examined. Article 9(2) of that directive authorises Member States to make an exception to that right in the cases referred to in that provision, including, in particular, that of the extradition of the applicant to a third State. That extradition is then subject, in accordance with Article 9(3) of that directive, to the condition that the competent authorities of that Member State should be satisfied that the extradition decision concerned will not result in direct or indirect refoulement of the requested individual in violation of the international and EU obligations of that Member State.

50 It thus follows from the wording and structure of Article 9 of Directive 2013/32, and from its position in the general scheme of that directive, that, as the Advocate General noted in point 77 of his Opinion, that article governs only cases of extradition during the procedure for examining an application for international protection. That article does not, however, govern the situation at issue in the main proceedings, where extradition is to occur after such protection has been granted by a Member State.

51 Secondly, Article 21(1) of Directive 2011/95, which is in Chapter VII entitled 'Content of international protection', refers to the obligation of Member States to respect the principle of non-refoulement in accordance with their international obligations. That provision is thus a specific expression of the principle of non-refoulement, which is guaranteed, as a fundamental right, in Article 18 and in Article 19(2) of the Charter, read in conjunction with Article 33 of the Geneva Convention (see, to that effect, judgments of 22 November 2022, *Staatssecretaris van Justitie en Veiligheid (Removal – Medicinal cannabis)*, C-69/21, EU:C:2022:913, paragraph 55, and of 6 July 2023, *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)*, C-663/21, EU:C:2023:540, paragraph 49).

52 As it is, in so far as the decision of a Member State to allow a request for extradition issued by the State of origin in respect of a third-country national, such as A., who has been granted refugee status in another Member State in accordance with the rules of secondary EU law on international protection would have the effect of depriving that third-country national of the rights and benefits laid down in Chapter VII of Directive 2011/95, it must be noted that the extradition procedure conducted in the first Member State involves the implementation of EU law, for the purposes of Article 51(1) of the Charter.

53 Accordingly, the fundamental rights affirmed by the Charter, particularly those guaranteed in Article 18 and in Article 19(2), must be fully respected by the Member State authority responsible for examining an extradition request from a third State in respect of a third-country national who has been granted refugee status in another Member State.

54 It is necessary therefore to determine whether Article 21(1) of Directive 2011/95, read in conjunction with Article 18 and Article 19(2) of the Charter, precludes extradition in circumstances such as those at issue in the main proceedings.

55 In that regard, it must be stated at the outset that the competent extradition authority of the requested Member State cannot authorise the extradition to a third country of a national of that third country who has been granted refugee status by another Member State if that extradition would be contrary to Article 21(1) of Directive 2011/95, read in conjunction with Article 18 and Article 19(2) of the Charter.

56 As regards the latter provisions specifically, first, according to Article 18 of the Charter, 'the right to asylum shall be guaranteed with due respect for the rules of the [Geneva Convention,] the [Protocol relating to the Status of Refugees] and in accordance with the [EU Treaty] and the [FEU Treaty]'.

57 According to the case-law of the Court, Member States are required to guarantee vis-à-vis applicants and beneficiaries of international protection the effective enjoyment of the right enshrined in that provision (see, to that effect, judgment of 22 June 2023, *Commission* v *Hungary (Declaration of intent prior to an asylum application)*, C-823/21, EU:C:2023:504, paragraph 52).

58 As the Advocate General stated in point 47 of his Opinion, as long as the requested individual satisfies the criteria for being a refugee, within the meaning of Article 2(d) of Directive 2011/95 and Article 1(A) of the Geneva Convention, an extradition of that individual to his or her third country of origin would have the effect of depriving that individual of the effective enjoyment of the right afforded to him or her by Article 18 of the Charter. Therefore, as long as that individual qualifies as a refugee, Article 18 of the Charter precludes the extradition of that individual to the third country which he or she fled and in which he or she risks being persecuted.

59 In the present case, this means that as long as there is a risk that A. may suffer political persecution – because of which he was granted refugee status by the Italian authorities – in his third State of origin which submitted the extradition request, A.'s extradition to that third State must be ruled out under Article 18 of the Charter.

60 In that regard, the mere fact that the criminal prosecution for which A.'s extradition is sought is based on facts other than that persecution is not sufficient to rule out that risk.

61 Secondly, Article 19(2) of the Charter prohibits in absolute terms the removal of a person to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment (see, to that effect, judgment of 6 July 2023, *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)*, C-663/21, EU:C:2023:540, paragraph 36 and the case-law cited).

62 Therefore, where the person whose extradition is sought invokes a real risk of inhuman or degrading treatment if extradited, the requested Member State must verify, before carrying out that extradition, that the extradition will not prejudice the rights referred to in Article 19(2) of the Charter (judgments of 6 September 2016, *Petruhhin*, C-182/15, EU:C:2016:630, paragraph 60, and of 2 April 2020, *Ruska Federacija*, C-897/19 PPU, EU:C:2020:262, paragraph 64).

63 For that purpose, that Member State, in accordance with Article 4 of the Charter, which prohibits inhuman or degrading treatment or punishment, cannot restrict itself to taking into consideration solely the declarations of the requesting third State or the accession, by the latter State, to international treaties guaranteeing, in principle, respect for fundamental rights. The competent authority of the requested Member State must rely, for the purposes of that verification, on information that is objective, reliable, specific and properly updated. That information may be obtained from, inter alia, judgments of international courts, such as judgments of the European Court of Human Rights, judgments of courts of the requesting third State, and also decisions, reports and other documents produced by bodies of the Council of Europe or under the aegis of the United Nations (judgments of 6 September 2016, *Petruhhin*, C-182/15, EU:C:2016:630, paragraphs 55 to 59, and of 2 April 2020, *Ruska Federacija*, C-897/19 PPU, EU:C:2020:262, paragraph 65).

64 For the purposes of assessing the risk of infringement of Article 21(1) of Directive 2011/95 and of Article 18 and Article 19(2) of the Charter, the fact that another Member State granted the requested individual refugee status, in accordance with Directives 2011/95 and 2013/32, is a particularly substantial piece of evidence which the competent authority of the requested Member State must take into account. Thus, a decision granting refugee status must lead that authority to refuse extradition, in accordance with those provisions, provided that that refugee status has not been revoked or withdrawn by the Member State that granted it.

65 The Common European Asylum System, which includes common criteria for the identification of persons genuinely in need of international protection, as stated in recital 12 of Directive 2011/95, is based on the principle of mutual trust, in accordance with which it must be presumed, save in exceptional circumstances, that the treatment of applicants for international protection in each Member State complies with the requirements of EU law, including those 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 (see, to that effect, judgments of 21 December 2011, *N.S. and Others*, C-411/10 and C-493/10, EU:C:2011:865, paragraphs 78 to 80, 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, paragraphs 84 and 85).

66 In addition, as noted in paragraph 42 of the present judgment, a Member State that has recognised a third-country national or a stateless person as having refugee status may, in accordance with Article 14 of Directive 2011/95, read in conjunction with Articles 44 and 45 of Directive 2013/32, revoke or withdraw that refugee status, in particular if it appears that he or she has ceased to be a refugee in accordance with Article 11 of Directive 2011/95 or if he or she is or should have been excluded from being a refugee in accordance with Article 12 of Directive 2011/95. In that regard, Article 45 of Directive 2013/32 sets out procedural rules relating to the withdrawal of international protection, and in particular the guarantees to be enjoyed by the person concerned in the context of the procedure.

67 However, those provisions and the procedure they lay down would be circumvented if the requested Member State could extradite a third-country national who had been granted refugee status by another Member State in accordance with those directives to his or her country of origin, since, de facto, such an extradition would effectively end that status and deprive the person concerned of the effective enjoyment of the protection afforded by Article 18 of the Charter, of the rights and benefits provided for by Chapter VII of Directive 2011/95 and of the guarantees set out in Article 45 of Directive 2013/32.

68 In view of the significance of such a decision granting refugee status for the purposes of assessing an extradition request from the country of origin of a person who has refugee status, it must be held, as the Advocate General stated in point 112 of his Opinion, that, on the basis of the principle of sincere cooperation set out in the first subparagraph of Article 4(3) TEU, by virtue of which the European Union and the Member States are, in full mutual respect, to assist each other in carrying out tasks which flow from the Treaties (judgment of 6 September 2016, *Petruhhin*, C-182/15, EU:C:2016:630, paragraph 42), and to which concrete expression is given in Article 36 of Directive 2011/95 and in Article 49 of Directive 2013/32, the competent extradition authority of the requested Member State must, as soon as possible, initiate an exchange of information with the authority of the other Member State which granted the requested individual refugee status. On that basis, it is required to inform the latter authority of the request for extradition relating to that individual, to send it its opinion on that request and to obtain from it, within a reasonable period, both the information in its possession that led to refugee status being granted and its decision as to whether or not it is necessary to revoke or withdraw that individual's refugee status.

69 That exchange of information is intended to ensure that the competent extradition authority of the requested Member State is in a position to proceed on a fully informed basis with the checks which it is required to carry out under Article 18 and Article 19(2) of the Charter.

70 Moreover, the exchange of information enables the competent authority of the other Member State, if appropriate, to revoke or withdraw refugee status on the basis of Article 14 of Directive 2011/95, whilst fully respecting the guarantees set out in Article 45 of Directive 2013/32.

71 In view of the above, it is only if the competent authority of the Member State which granted the requested individual refugee status decides to revoke or to withdraw that status on the basis of Article 14 of Directive 2011/95 and in so far as the competent extradition authority of the requested Member State reaches the conclusion that that individual is not or is no longer a refugee and that there is no serious risk that, in the event of that individual's extradition to the requesting third State, he or she would be subjected there to the death penalty, torture or other inhuman or degrading treatment or punishment, that EU law would not preclude extradition.

72 In the light of all of the foregoing considerations, the answer to the question raised is that Article 21(1) of Directive 2011/95, read in conjunction with Article 18 and Article 19(2) of the Charter, must be interpreted as meaning that, where a third-country national who has been granted refugee status in one Member State is the subject, in another Member State, on whose territory he or she resides, of an extradition request from his or her country of origin, the requested Member State cannot authorise extradition unless it has initiated an exchange of information with the authority that granted the requested individual refugee status and where that status has not been revoked by that authority.

Costs

73 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 21(1) 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, read in conjunction with Article 18 and Article 19(2) of the Charter of Fundamental Rights of the European Union,

must be interpreted as meaning that, where a third-country national who has been granted refugee status in one Member State is the subject, in another Member State, on whose territory he or she resides, of an extradition request from his or her country of origin, the requested Member State cannot authorise extradition unless it has initiated an exchange of information with the authority that granted the requested individual refugee status and where that status has not been revoked by that authority.

[Signatures]