Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

19 December 2024*

(Reference for a preliminary ruling – Asylum policy – Regulation (EU) No 604/2013 – Article 3(2) – Transfer of the asylum seeker to the Member State responsible for examining the application for international protection – Article 4 of the Charter of Fundamental Rights of the European Union – Risk of inhuman or degrading treatment – Evidence and standard of proof of the real risk of inhuman or degrading treatment, resulting from systemic flaws in the asylum procedure and in the reception conditions for applicants in the Member State responsible – Suspension, by the Member State responsible, of the taking charge of and taking back of asylum seekers)

In Joined Cases C-185/24 and C-189/24 [Tudmur[i]],

TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Oberverwaltungsgericht für das Land Nordrhein-Westfalen (Higher Administrative Court for the *Land* of North Rhine-Westphalia, Germany), made by decisions of 14 February 2024, received at the Court on 7 and 8 March 2024, in the proceedings

RL (C-185/24),

QS (C-189/24)

v

Bundesrepublik Deutschland,

THE COURT (Second Chamber),

composed of K. Jürimäe (Rapporteur), President of the Chamber, K. Lenaerts, President of the Court, M. Gavalec, Z. Csehi and F. Schalin, Judges,

Advocate General: M. Szpunar,

Registrar: A. Calot Escobar,

having regard to the written procedure,

* Language of the case: German.

[i] The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

after considering the observations submitted on behalf of:

– the German Government, by J. Möller and R. Kanitz, acting as Agents,

– the Danish Government, by D. Elkan, M. Jespersen and C. Maertens, acting as Agents,

– the French Government, by R. Bénard and O. Duprat-Mazaré, acting as Agents,

– the Italian Government, by G. Palmieri, acting as Agent, and by L. D'Ascia and D.G. Pintus, avvocati dello Stato,

– the Austrian Government, by A. Posch, J. Schmoll and M. Kopetzki, acting as Agents,

– the Finnish Government, by H. Leppo, acting as Agent,

– the European Commission, by A. Katsimerou and B. Schima, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 These requests for a preliminary ruling concern the interpretation of the second subparagraph of Article 3(2) of 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; 'the Dublin III Regulation').

2 The requests have been made in proceedings between two Syrian nationals and the Bundesrepublik Deutschland (Federal Republic of Germany) concerning decisions rejecting their applications for asylum and ordering their removal to Italy.

Legal context

European Union law

3 Article 4 of the Charter of Fundamental Rights of the European Union ('the Charter') provides:

'No one shall be subjected to torture or to inhuman or degrading treatment or punishment.'

4 Recitals 4 and 5 of the Dublin III Regulation state:

'(4) The Tampere conclusions also stated that the [Common European Asylum System] should include, in the short-term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.

(5) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.'

5 Article 3 of that regulation, entitled 'Access to the procedure for examining an application for international protection', provides, in paragraphs 1 and 2 thereof:

'1. Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones. The application shall be examined by a single Member State, which shall be the one which the criteria set out in Chapter III indicate is responsible.

2. Where no Member State responsible can be designated on the basis of the criteria listed in this Regulation, the first Member State in which the application for international protection was lodged shall be responsible for examining it.

Where it is impossible to transfer an applicant to the Member State primarily designated as responsible because there are substantial grounds for believing that there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that Member State, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the [Charter], the determining Member State shall continue to examine the criteria set out in Chapter III in order to establish whether another Member State can be designated as responsible.

Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in Chapter III or to the first Member State with which the application was lodged, the determining Member State shall become the Member State responsible.'

German law

6 Pursuant to Paragraph 29(1) of the Asylgesetz (Law on Asylum), in the version published on 2 September 2008 (BGBl. 2008 I, p. 1798), as last amended by Paragraph 1 of the Law of 19 December 2023 (BGBl. 2023 I, No 382):

'An application for asylum shall be inadmissible if

1. another State is responsible for conducting the asylum procedure

(a) in accordance with [the Dublin III Regulation]

…'

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

7 RL and QS are two Syrian nationals. They filed an application for asylum in Germany on 30 December 2021 and 15 February 2022, respectively.

8 Based on information in the Eurodac database, the Italian Republic was, however, identified as the Member State responsible for examining the two applications for asylum.

9 The Bundesamt für Migration und Flüchtlinge (Federal Office for Migration and Refugees, Germany) ('the Federal Office') therefore requested the Italian Republic to take charge of RL and QS. That request did not receive a reply.

10 Subsequently, by decisions of 31 March and 19 April 2022, the Federal Office dismissed the applications for asylum of RL and QS as inadmissible pursuant to Paragraph 29(1)(1)(a) of the Law on Asylum, as amended by the Law of 19 December 2023, on the ground that the Italian Republic was responsible for examining their applications for asylum. It also ordered the removal of those applicants to Italy.

11 RL and QS each brought an action against those decisions before the Verwaltungsgericht Düsseldorf (Administrative Court, Düsseldorf, Germany). By orders of 25 and 29 April 2022, that court ordered that those actions were to have suspensive effect. By judgments of 11 and 13 May 2022, it annulled those decisions.

12 The Federal Republic of Germany appealed against those judgments before the Oberverwaltungsgericht für das Land Nordrhein-Westfalen (Higher Administrative Court for the *Land* of North Rhine-Westphalia, Germany), the referring court.

13 While the appeals were pending, the Italian Dublin Unit, on 5 December 2022, issued a circular to all Dublin Units. That circular was worded as follows:

'This is to inform you that due to suddenly appeared technical reasons related to unavailability of reception facilities Member States are requested to temporarily suspend transfers to Italy from tomorrow, with the exception of cases of family reunification of unaccompanied minors.

Further and more detailed information regarding the duration of the suspension will follow.'

14 On 7 December 2022, the Italian Dublin Unit sent a second circular. It states:

'I write following the previous communication on 5th December, concerning the suspension of transfers, with the exception of cases of family reunification of minors, due to the unavailability of reception facilities.

At this regard, considering the high number of arrivals both at sea and land borders, this is to inform you about the need for a re-scheduling of the reception activities for third countries nationals, also taking into account the lack of available reception places.'

15 By orders or 21 June 2023, the referring court dismissed the appeals referred to in paragraph 12 above. It found that the Federal Republic of Germany had become responsible for examining the applications for asylum of RL and QS, in accordance with the third subparagraph of Article 3(2) of the Dublin III Regulation, since it was impossible to transfer those applicants to Italy.

16 Those orders were set aside by the Bundesverwaltungsgericht (Federal Administrative Court, Germany) and the cases were referred back to the referring court for the purpose of a new examination and a new decision.

17 In that connection, that court observes that, in accordance with the provisions of the Dublin III Regulation, the Italian Republic is the Member State responsible for examining the applications for asylum at issue. Those applications could therefore have been dismissed as being inadmissible, unless the Federal Republic of Germany had become the responsible Member State pursuant to the second and third subparagraphs of Article 3(2) of that regulation, on account of 'systemic flaws' in the asylum procedure and in the reception conditions for applicants for international protection in Italy, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter.

18 That court takes the view that it is necessary to clarify the interpretation of the concept of 'systemic flaws' within the meaning of the second subparagraph of Article 3(2) of that regulation. It enquires whether the refusals of the Member State responsible to take charge of or take back applicants for international protection for an indefinite period of time, with the exception of a few individual cases, constitute systemic flaws.

19 The referring court is of the opinion that an affirmative answer should be given to that question. In its view, by deliberately refusing to take charge of or to take back the asylum seekers, the Italian Republic from the outset refuses them access to the asylum procedure and reception.

20 However, in the event that that question is answered in the negative, that court also seeks to ascertain how it may assess the existence of systemic flaws in a case where the Member State responsible refuses to take charge of or to take back asylum seekers. In such a case, it would be impossible to gather information that is objective, reliable, specific and properly updated relating to the asylum procedure and to the reception conditions for asylum seekers necessary for the purposes of such an assessment.

21 In those circumstances, the Oberverwaltungsgericht für das Land Nordrhein-Westfalen (Higher Administrative Court for the *Land* of North Rhine-Westphalia) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is the second subparagraph of Article 3(2) of [the Dublin III Regulation] to be interpreted as meaning that there are systemic flaws in the asylum procedure and [in] the reception conditions for applicants in the Member State primarily designated as responsible, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the [Charter], where that Member State refuses in principle to (take back or) take charge of asylum seekers, for an indefinite period of time, on account of a State-ordered suspension of the acceptance of transfers?

(2) If Question 1 is to be answered in the negative, is the second subparagraph of Article 3(2) of [the Dublin III Regulation] to be interpreted as meaning that the rules of EU law on the determination of the facts, which require the establishment of objective, reliable, specific and properly updated information on the asylum procedure and the reception conditions for applicants to be transferred, are restricted where the adjudicating court cannot obtain that information and would be able to determine only a hypothetical set of facts because the Member State [to be regarded as responsible] refuses in principle to (take back or) take charge of asylum seekers, for an indefinite period of time, on account of a State-ordered suspension of the acceptance of transfers?'

Procedure before the Court

22 By decision of the President of the Court of 25 April 2024, Cases C-185/24 and C-189/24 were joined for the purposes of the written and oral parts of the procedure and of the judgment.

23 By decision of the President of the Court of the same date, the present cases were given priority.

24 By order of the President of the Court of 7 June 2024, the referring court's request that the present cases be dealt with under the expedited procedure provided for in Article 105 of the Rules of Procedure of the Court was rejected.

Consideration of the questions referred

Admissibility

25 The Italian Government contends that the second question is inadmissible. It claims that that question is purely hypothetical, since it is based on an incorrect premiss, and that it is contrary to the principle of mutual trust as regards the reasons for the suspension of transfers to Italy.

26 In accordance with settled case-law, questions on the interpretation of EU law referred by a national court in the factual and legislative context which that court is responsible for defining, and the accuracy of which is not a matter for the Court to determine, enjoy a presumption of relevance. The Court may refuse to rule on a question referred for a preliminary ruling from a national court only where it is quite obvious that the interpretation of EU law sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgment of 18 June 2024, *Bundesrepublik Deutschland (Effect of a decision granting refugee status)*, C-753/22, EU:C:2024:524, paragraph 44 and the case-law cited).

27 In the present case, it is unequivocally clear from the requests for a preliminary ruling that the second question does indeed concern the interpretation of provisions of EU law which are relevant for the purposes of the disputes in the main proceedings. Moreover, since the referring court is responsible for defining the legal and factual context of the disputes in the main proceedings, it is not for the Court to verify the premisses on which the requests for a preliminary ruling are based.

28 It follows that the second question is admissible.

Substance

29 By its two questions, which it is appropriate to examine together, the referring court asks, in essence, whether the second subparagraph of Article 3(2) of the Dublin III Regulation must be interpreted as meaning that it may be found that there are, in the Member State designated as responsible under the criteria set out in Chapter III of that regulation, systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the

Charter, on the sole ground that that Member State has unilaterally suspended the taking charge of and taking back of those applicants. If not, that court asks on the basis of which information it may establish the existence of such flaws in such a case.

30 It must be borne in mind 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, namely human dignity, which includes, inter alia, the prohibition of inhuman or degrading treatment (see, to that effect, judgments of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 80, and of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraph 43 and the case-law cited).

31 The principle of mutual trust between the Member States is, in EU law, of fundamental importance given that it allows an area without internal borders to be created and maintained. More specifically, the principle of mutual trust requires, particularly as regards the area of freedom, security and justice, 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 (judgments of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 81 and the case-law cited, and of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraph 44).

32 Accordingly, in the context of the Common European Asylum System, and in particular the Dublin III Regulation, it must be presumed that the treatment of applicants for international protection in all Member States complies with the requirements of the Charter, 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)), which entered into force on 22 April 1954 and was supplemented by the Protocol relating to the Status of Refugees, concluded in New York on 31 January 1967 and entered into force on 4 October 1967, 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 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 82 and the case-law cited, and of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraph 45).

33 It is not, however, inconceivable that that system may, in practice, experience major operational problems in a given Member State, meaning that there is 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 (judgments of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 83 and the case-law cited, and of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraph 46).

34 Thus, the second subparagraph of Article 3(2) of the Dublin III Regulation provides that an applicant for international protection cannot be transferred to the Member State responsible for examining his or her application if there are substantial grounds for believing that he or she would be at risk of inhuman or degrading treatment, within the meaning of Article 4 of the Charter,

because of systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection in that Member State (judgment of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraph 47). In that situation, in accordance with the second and third subparagraphs of Article 3(2) of that regulation, the determining Member State becomes the Member State responsible for examining the application for international protection if it finds, following examination of the criteria set out in Chapter III of that regulation, that the transfer cannot be made to any Member State designated on the basis of those criteria or to the first Member State in which the application was lodged (judgment of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 86).

35 It unequivocally follows from the second subparagraph of Article 3(2) of the Dublin III Regulation that only 'systemic flaws', 'resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the [Charter]', make the transfer of an applicant for international protection to the responsible Member State impossible. That provision thus sets out two cumulative conditions (see, to that effect, judgment of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraphs 57 and 58).

36 The first of those conditions, relating to the existence of 'systemic flaws', is satisfied where the flaws at issue remain in place and concern, generally, the asylum procedure and the reception conditions applicable to applicants for international protection or, at the very least, to certain groups of applicants for international protection as a whole (see, to that effect, judgment of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraph 59).

37 Those deficiencies must, moreover, attain a particularly high level of severity, which depends on all the circumstances of the case. That level is attained where the indifference of the authorities of a Member State would result in a person wholly dependent on State support finding himself or herself, irrespective of that person's 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 that person in a state of degradation incompatible with human dignity. That threshold cannot therefore cover situations characterised even by a high degree of insecurity or a significant degradation of the living conditions of the person concerned, where they do not entail extreme material poverty placing that person in a situation of such gravity that it may be equated with inhuman or degrading treatment (see, to that effect, judgment of 19 March 2019 *Jawo*, C-163/17, EU:C:2019:218, paragraphs 91 to 93, and order of 13 November 2019, *Hamed and Omar*, C-540/17 and C-541/17, not published, EU:C:2019:964, paragraph 39).

38 The second condition, which relates to there being a risk of such treatment, is thus satisfied where those systemic flaws result in a risk, for the person concerned, of being exposed to treatment that is contrary to Article 4 of the Charter (see, to that effect, judgment of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraph 62).

39 As regards the assessment of those conditions by the court or tribunal hearing an action challenging a transfer decision, it follows from the case-law of the Court that, where that court or tribunal has available to it evidence provided by the person concerned for the purpose of establishing the existence of such a risk, that court or tribunal is obliged to assess, 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, whether the two conditions set out in the second subparagraph of Article 3(2) of the Dublin III Regulation are satisfied (see, to that effect, judgments of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 90, and of 30 November 2023, *Ministero dell'Interno and Others (Common leaflet – Indirect refoulement)*, C-228/21, C-254/21, C-297/21, C-315/21 and C-328/21, EU:C:2023:934, paragraph 136). In addition, that court or tribunal must also take into consideration, on its own initiative, relevant information of which it is aware in order to decide on the application of the second subparagraph of Article 3(2) of the Dublin III Regulation (see, to that effect, judgment of 29 February 2024, *Staatssecretaris van Justitie en Veiligheid (Mutual trust in the event of transfer)*, C-392/22, EU:C:2024:195, paragraph 77).

40 It follows from that case-law that, as the European Commission and all the Governments which submitted observations before the Court have noted, the existence of systemic flaws in the asylum procedure and in the reception conditions, exposing the applicant to a serious risk of inhuman or degrading treatment, cannot be assumed on account of the mere fact that the Member State responsible unilaterally and in disregard of its obligations in the context of the Common European Asylum System announced the suspension of all transfers of applicants for international protection to its territory and, accordingly, of the procedures for taking charge of and taking back those applicants. On the contrary, the existence of such systemic flaws and of such a risk may be established only following a specific analysis based on information that is objective, reliable, specific and properly updated.

41 That interpretation is also borne out by the aims of the Dublin III Regulation, which seeks, inter alia, to establish a clear and effective method for determining the Member State responsible and to prevent secondary movements of asylum seekers between Member States (judgment of 30 November 2023, *Ministero dell'Interno and Others (Common leaflet – Indirect refoulement)*, C-228/21, C-254/21, C-297/21, C-315/21 and C-328/21, EU:C:2023:934, paragraph 141 and the case-law cited).

42 The Member State designated as responsible under the criteria set out in Chapter III of the Dublin III Regulation cannot discharge itself, by a mere unilateral announcement, of its responsibilities under that regulation, since such a possibility would lead to those criteria being disregarded and would thus risk jeopardising the proper functioning of the system put in place by that regulation. Moreover, to consider that it may be inferred from such a unilateral announcement that there are systemic flaws in the asylum procedure and in the reception conditions for applicants, resulting in a serious risk of inhuman or degrading treatment, to the point of preventing all transfers of applicants for international protection to the Member State responsible and involving a transfer of responsibility of that Member State to the Member State of secondary movement, would be likely to encourage such movements by inducing applicants to continue their migratory journey to another Member State which they believe will offer more favourable conditions.

43 Accordingly, the fact that the Member State designated as responsible under the criteria established in Chapter III of the Dublin III Regulation has unilaterally suspended the taking charge of and taking back of applicants for international protection is not capable, in itself, of justifying the finding, pursuant to the second subparagraph of Article 3(2) of that regulation, of systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection in that Member State, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter.

44 Consequently, even in such a case, it is for the court or tribunal hearing an action challenging a transfer decision to carry out an assessment of the existence of such systemic flaws and of the risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter in the circumstances specified by the case-law referred to in paragraphs 35 to 39 above.

45 In that respect, in view of the referring court's questions, it should be added that, although that assessment, which must be based on information that is objective, reliable, specific and properly updated, necessarily involves a prospective component, in so far as it is for the competent court or tribunal to examine the risks the individual concerned would be exposed to at the very moment of the transfer, during the asylum procedure or following it (see, to that effect, judgments of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 88, and of 30 November 2023, *Ministero dell'Interno and Others (Common leaflet – Indirect refoulement)*, C-228/21, C-254/21, C-297/21, C-315/21 and C-328/21, EU:C:2023:934, paragraph 135), it is neither impossible nor purely hypothetical.

46 It follows from the case-law of the Court that the court or tribunal hearing an action challenging a transfer decision may, for the purposes of that assessment, take into account all available documents, such as, where appropriate, the regular and concordant reports of international non-governmental organisations bearing witness to practical difficulties in the implementation of the Common European Asylum System in the Member State concerned, documents issued by the United Nations High Commissioner for Refugees, as well as documents and exchanges of information in connection with the implementation of the system established by the Dublin III Regulation (see, by analogy, judgment of 21 December 2011, *N.S. and Others*, C-411/10 and C-493/10, EU:C:2011:865, paragraphs 90 and 91), so that it is in a position to determine the existence of such systemic flaws and of the risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter.

47 In the light of all the foregoing reasons, the answer to the questions referred is that the second subparagraph of Article 3(2) of the Dublin III Regulation must be interpreted as meaning that:

– it may not be found that there are, in the Member State designated as responsible under the criteria set out in Chapter III of that regulation, systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter, on the sole ground that that Member State has unilaterally suspended the taking charge of and taking back of those applicants;

– such a finding may only be made following an analysis of all the relevant data on the basis of information that is objective, reliable, specific and properly updated.

Costs

48 Since these 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 (Second Chamber) hereby rules:

The second subparagraph of Article 3(2) of 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

must be interpreted as meaning that it may not be found that there are, in the Member State designated as responsible under the criteria set out in Chapter III of that regulation, systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union, on the sole ground that that Member State has unilaterally suspended the taking charge of and taking back of those applicants.

Such a finding may only be made following an analysis of all the relevant data on the basis of information that is objective, reliable, specific and properly updated.

[Signatures]