Reports of Cases

OPINION OF ADVOCATE GENERAL
HOGAN
delivered on 19 March 2020[1]

Joined Cases C-133/19, C-136/19 and C-137/19

B.M.M.,
B.S. (C-133/19)
B.M.M.,
B.M. (C-136/19)
B.M.O. (C-137/19)
v
État belge

(Request for a preliminary ruling from the Conseil d'État (Council of State, Belgium))

(Reference for a preliminary ruling — Right to family reunification — Directive 2003/86/EC — Article 4 — Concept of 'minor' — Article 18 — Right to mount a legal challenge where an application for family reunification is rejected — Article 47 of the Charter of Fundamental Rights of the European Union — Right to an effective remedy — Third country nationals below the age of 18 at the time their request for family reunification was brought — Attainment of majority during the administrative procedure — Attainment of majority during the judicial procedure — Decisive date to assess the 'minor' status of the interested parties)

I. Introduction

1. In the words of Article 23(1) of the United Nations International Covenant on Civil and Political Rights 1966, the family 'is the natural and fundamental group unit of society'. This legal principle simply reflects the truism that virtually all human societies are based around the family, even if the range of family life is also diverse and various. Yet the idea that, subject to exceptions designed to safeguard their welfare, children are entitled to the care and company of their parents is one with deep roots in the legal, cultural and moral traditions of all of the Member States.

2. All of this is reflected in the idea of family reunification which itself is a key feature of modern international humanitarian law. In the context of European Union law, this principle finds expression in Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification[2], thus enabling family members — and, in particular, minors — to settle in the host country and to join another family member who has been granted refugee status in that state.

1 Original language: English.

2 OJ 2003 L 251, p. 12.

3. This is the backdrop to the present preliminary references which concern the interpretation of Directive 2003/86/EC and of Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter'). In essence the question raised by those references is whether children who were still minors at the date of the introduction of their application for family reunification should continue to be treated as such for this purpose even if they later attain their majority during the course of the administrative proceedings ruling on their request (C-137/19) or during subsequent judicial proceedings (C-133/19 and C-136/19).

4. The present requests arise out of proceedings before the Conseil d'État (Council of State, Belgium) between B.M.M. and B.S. (C-133/19), B.M.M. and B.M. (C-136/19) as well as B.M.O. (C-137/19) ('the applicants') on the one hand, and the ministre de l'asile et la migration (Minister for Social Affairs and Public Health, and for Asylum and Migration, Belgium) on the other, from the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings, Belgium), before which the applicants have each lodged an appeal.

5. The proceedings before the referring court in case C-137/19 concern, in essence, the interpretation of the term 'minor' in Article 4(1) of Directive 2003/86, and whether that term must be interpreted as meaning that to be qualified as a 'minor' under that directive, a third country national must be a 'minor' not only at the date of their request for entry into, and residence in, a Member State, but also at the time when that Member State's administration finally takes a decision on their request.

6. The proceedings before the referring court in case C-133/19 and C-136/19 concern the question of whether Article 47 of the Charter and Article 18 of Directive 2003/86 must be interpreted as precluding an action for annulment brought against an administrative decision, refusing the right to family reunification of a minor child, from being declared inadmissible on the grounds that the child reached the age of majority during the proceedings, as he or she would be deprived of the possibility of appealing that decision, which would violate his or her right to an effective remedy.

7. Before considering these issues, it is, however, first necessary to set out the relevant legal provisions.

A. European Union Law

8. Article 47 of the Charter provides:

'Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.

Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.'

1. Directive 2003/86

9. Recitals 2, 4, 6 and 13 of Directive 2003/86 provide:

‘(2) Measures concerning family reunification should be adopted in conformity with the obligation to protect the family and respect family life enshrined in many instruments of international law. This Directive respects the fundamental rights and observes the principles recognised in particular in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the Charter of Fundamental Rights of the European Union.

…

(4) Family reunification is a necessary way of making family life possible. It helps to create sociocultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion, a fundamental Community objective stated in the Treaty.

…

(6) To protect the family and establish or preserve family life, the material conditions for exercising the right to family reunification should be determined on the basis of common criteria.

…

(13) A set of rules governing the procedure for examination of applications for family reunification and for entry and residence of family members should be laid down. Those procedures should be effective and manageable, taking account of the normal workload of the Member States’ administrations, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned.’

10. Article 4 of that directive provides:

‘1. The Member States shall authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, as well as in Article 16, of the following family members:

(a) the sponsor’s spouse;

(b) the minor children of the sponsor and of his/her spouse, including children adopted in accordance with a decision taken by the competent authority in the Member State concerned or a decision which is automatically enforceable due to international obligations of that Member State or must be recognised in accordance with international obligations;

(c) the minor children including adopted children of the sponsor where the sponsor has custody and the children are dependent on him or her. Member States may authorise the reunification of children of whom custody is shared, provided the other party sharing custody has given his or her agreement;

(d) the minor children including adopted children of the spouse where the spouse has custody and the children are dependent on him or her. Member States may authorise the reunification of children of whom custody is shared, provided the other party sharing custody has given his or her agreement.

…

6. By way of derogation, Member States may request that the applications concerning family reunification of minor children have to be submitted before the age of 15, as provided for by its existing legislation on the date of the implementation of this Directive. If the application is submitted after the age of 15, the Member States which decide to apply this derogation shall authorise the entry and residence of such children on grounds other than family reunification.'

11. Article 5 of that directive provides:

'1. Member States shall determine whether, in order to exercise the right to family reunification, an application for entry and residence shall be submitted to the competent authorities of the Member State concerned either by the sponsor or by the family member or members.

2. The application shall be accompanied by documentary evidence of the family relationship and of compliance with the conditions laid down in Articles 4 and 6 and, where applicable, Articles 7 and 8, as well as certified copies of family member(s)' travel documents.

If appropriate, in order to obtain evidence that a family relationship exists, Member States may carry out interviews with the sponsor and his/her family members and conduct other investigations that are found to be necessary.

…

4. The competent authorities of the Member State shall give the person, who has submitted the application, written notification of the decision as soon as possible and in any event no later than nine months from the date on which the application was lodged.

In exceptional circumstances linked to the complexity of the examination of the application, the time limit referred to in the first subparagraph may be extended.

Reasons shall be given for the decision rejecting the application. Any consequences of no decision being taken by the end of the period provided for in the first subparagraph shall be determined by the national legislation of the relevant Member State.

5. When examining an application, the Member States shall have due regard to the best interests of minor children.'

12. Article 16(1) of the same directive provides:

'1. Member States may reject an application for entry and residence for the purpose of family reunification, or, if appropriate, withdraw or refuse to renew a family member's residence permit, in the following circumstances:

(a) where the conditions laid down by this Directive are not or are no longer satisfied.

…'

13. Article 18 of Directive 2003/86 states:

'The Member States shall ensure that the sponsor and/or the members of his/her family have the right to mount a legal challenge where an application for family reunification is rejected or a residence permit is either not renewed or is withdrawn or removal is ordered.

The procedure and the competence according to which the right referred to in the first subparagraph is exercised shall be established by the Member States concerned.'

2. National law

14. Article 4(1)(c) of Directive 2003/86 was transposed into Belgian law by point 4 of the first subparagraph of Article 10(1) of the loi du 15 décembre 1980 sur l'accès du territoire; le séjour, l'établissement et l'éloignement des étrangers[3] (the Law of 15 December 1980 on entry to the territory, residence, establishment and removal of foreign nationals, 'the Law of 15 December'), which, as applicable in the present case[4], provides as follows:

'Art. 10(1). Subject to Articles 9 and 12, the following persons shall be granted leave to reside in the Kingdom for more than three months as of right:

…

4° the following family members of a foreign national who, for at least 12 months, has been admitted or granted leave to reside in the Kingdom for an unlimited period, or who, for at least 12 months, has been granted leave to become established there:

– his foreign spouse or the foreign national with whom he is in a registered partnership considered to be equivalent to marriage in Belgium, who is coming to live with him, provided that both parties concerned are over the age of 21 years. This minimum age shall be reduced to 18 years, however, where the marital relationship or the registered partnership, as the case may be, pre-exists the arrival in the Kingdom of the foreign national who is being joined;

– their children, who are coming to live with them before they have reached the age of 18 years and are unmarried;

– the children of the foreign national who is being joined, his spouse or the registered partner referred to in the first indent, who are coming to live with them before they have reached the age of 18 years and are unmarried, provided that the foreign national who is being joined, his spouse or that registered partner has the right of custody and control of those children and, in the event of shared custody, on condition that the other person sharing custody has given his agreement.'

15. Article 10(3) of that law provides:

'The Minister or his delegate may decide to reject an application for a residence permit for more than three months, … either where the foreign national … has used false or misleading information or false or falsified documents or has resorted to fraud or other illegal means, of a decisive nature, in order to obtain such a permit …'.

16. Article 12bis of that law transposes Article 5 of Directive 2003/86 into Belgian law. In its version applicable to the present case, this article provides:

'1. A foreign national who declares that he is in one of the cases referred to in Article 10 must submit his application to the competent Belgian diplomatic or consular representative for the place of his residence or stay abroad.

…

3 *Moniteur belge* of 31 December 1980, p. 14584.

4 As modified by the loi du 15 septembre 2006 (Law of 15 September 2006).

2. …The filing date of the application is the date on which all these documents, in accordance with Article 30 of the Law of 16 July 2004 on the Code of Private International Law or international conventions on the same subject, are produced.

The decision on residency permission shall be taken and notified as soon as possible and at the latest within nine months of the date of submission of the application as defined in paragraph 2.

In exceptional cases related to the complexity of the application …, the Minister or his delegate may, on two occasions, extend the period of examination for three months by reasoned decision.

If no decision has been taken at the end of the nine-month period following the date of the application's submission, with a possible extension in accordance with paragraph 5, residency permission shall be recognised.

…

(7) In considering the application, due regard shall be given to the best interests of the child.'

17. Article 39/56 of the Law of 15 December states:

'the actions referred to in Article 39/2 may be brought before the Council by a foreign national who is able to show an injury or an interest.'

II. The facts of the main proceedings and the reference for a preliminary ruling

18. The applicants in the main proceedings made requests at the Embassy of Belgium in Conakry, Guinea on 20 March 2012 for family reunification visas as the minor children of a third country national enjoying refugee status in Belgium. These requests were rejected by a decision of 2 July 2012.

19. On 9 December 2013, the applicants made a second request at the Embassy of Belgium in Dakar, Senegal. At this time the applicants were respectively 14, 15 and 17 years of age.

20. These requests were rejected on 25 March 2014 by the Minister. on the grounds that, in cases C-133/19 and C-137/19, the applicants had declared their respective birthdates in their visa applications, supported with their birth certificates, as the 16 March 1999 and the 20 January 1996, while their father, in his application for asylum in Belgium, had stated that their respective birthdates were the 16 March 1997 and the 20 January 1994. In case C-136/19, the applicant had claimed that she was the daughter of the sponsor, whereas in his application for asylum, the sponsor had never made reference to her existence.

21. At the time that these decisions rejecting the requests were taken, the applicants in cases C-133/19 and C-136/19 were still minors, while the applicant in case C-137/19 had, in the meantime, become an adult.

22. The applicants challenged these second decisions before the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings) in three annulment proceedings which commenced on 25 April 2014.

23. By three decisions dated the 31 January 2018, the Conseil des contentieux du étrangers (Council for Asylum and Immigration Proceedings) rejected the applicants' claims as inadmissible on the ground of absence of interest. That court held that an applicant's interest must exist at the moment a claim is brought, and must subsist until a judgment is made. If the decisions in question were annulled and the defendant were required to reconsider the application, the court found that it would only be

able to conclude that the visa application was inadmissible, since, as all the applicants were over the age of 18, they would no longer fulfil the conditions laid down in the provisions on family reunification for minors. In this context, however, it should be noted that there had been an interval of almost four years since the second application had been refused and the subsequent decision of the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings) to treat the proceedings as inadmissible by reason of the fact that the children had attained their majority in the meantime.

24. The applicants appealed these decisions to the Conseil d'État (Council of State), arguing, firstly, that the interpretation of the Conseil du Contentieux des Étrangers (Council for Asylum and Immigration Proceedings) violated the principle of effectiveness of EU law, in so far as it prevented them from enjoying their right to family reunification under Article 4 of Directive 2003/86. Secondly, it was contended that such an interpretation would also violate their right to an effective remedy, in denying them the possibility of appealing against the administrative decisions that refused to recognise their right to family reunification; these decisions being adopted, as well as challenged, at a time when the applicants were still minors.

25. In its decisions of 31 January 2019, the Conseil d'État (Council of State) notes that the Court has recently ruled in the judgment of 12 April 2018, *A and S* (C-550/16, EU:C:2018:248) that Article 2(f) of Directive 2003/86/EC of 22 September 2003 on the right to family reunification, read in conjunction with Article 10(3)(a) thereof, must be interpreted as meaning that a third-country national or stateless person who is below the age of 18 at the time of his or her entry into the territory of a Member State and of the introduction of his or her asylum application in that State, but who, in the course of the asylum procedure, attains the age of majority and is thereafter granted refugee status must nonetheless be regarded as a 'minor' for the purposes of that provision.

26. According to the referring court, however, that judgment can be distinguished from the cases in the main proceedings in so far as they do not concern a minor that has the recognised status of 'refugee'. Moreover, in this case, contrary to the facts of that judgment, the recognition of the right to family reunification is not dependent on 'the speed with which the application is processed',[5] since the decisions of 25 March 2014 were adopted within the time limit provided for that purpose by Article 12bis, § 2, of the Law of 15 December.

27. In these circumstances the Conseil d'État (Council of State) suspended proceedings and to referred to the Court for a preliminary ruling in each of the actions brought before it.

28. In cases C-133/19 and C-136/19, the Conseil d'État (Council of State) submitted the following questions:

'(1) In order to ensure the effectiveness of EU law and not to render it impossible to benefit from the right to family reunification which, in the [second] applicant's submission, is conferred on her by Article 4 of [Council Directive 2003/86], must that provision be interpreted as meaning that the sponsor's child may enjoy the right to family reunification when he attains his majority during the judicial proceedings against the decision which refuses him that right and which was taken when he was still a minor?

(2) Must Article 47 of the Charter of Fundamental Rights of the European Union and Article 18 of [Directive 2003/86] be interpreted as precluding an action for annulment, brought against the refusal of a right to family reunification of a minor child, being held to be inadmissible on the

5 See judgment of 12 April 2018, *A and S*, (C-550/16, EU:C:2018:248, paragraph 55).

ground that the child has attained his majority during the judicial proceedings, since he would be deprived of the possibility of securing a determination of his action against that decision and there would be a breach of his right to an effective remedy?'

29. In case C-137/19, the Conseil d'État (Council of State) submitted the following question

'Must Article 4(1)(c) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, read where appropriate with Article 16(1) of that directive, be interpreted as requiring that third country nationals, in order to be classified as "minor children" within the meaning of that provision, must be "minors" not only at the time of submitting the application for leave to reside but also at the time when the administration eventually determines that application?'

30. A hearing was held before the Court on 30 January 2020 at which the applicants, the Belgian Government and the European Commission were represented.

III. Analysis

31. It is perhaps worth stating at the outset that nothing in this Opinion should be construed as reflecting on the merits of the individual applications. It is clear that the Minister was not persuaded that the details regarding the relevant dates of birth in respect of the applicants in C-133/19 and C-137/19 respectively were correct or that the applicant in C-136/19 was in fact the daughter of her sponsor. The assessment of these factual matters is entirely a matter for the national authorities and the national courts.

32. The legal matter which arises here raises a separate issue, namely, whether the applicants are entitled to be treated as minors for the purposes of Directive 2003/86 even though they subsequently attained their majority when the administration ruled on their application for family reunification (C-137/19), or during the course of judicial proceedings challenging the decision of the Minister to refuse their application for reunification (C-133/19 and C-136/19).

33. One might also observe that the derogation contemplated by Article 4(6) of Directive 2003/86 whereby Member States 'may request that the applications concerning family reunification of minor children have to be submitted before the age of 15, as provided for by its existing legislation on the date of the implementation of this Directive' would not appear to apply to the Kingdom of Belgium, although this is ultimately for the national court to verify.

34. In considering this question it may be helpful to commence with an examination of the decision of this Court in *A and S*[6] to which the national court made reference in the course of its decision to refer. In *A and S*, the applicants were two Eritrean nationals who challenged the refusal by the Dutch authorities to grant them (and their three minor sons) a temporary residence permit for the purposes of family reunification with their minor daughter. The daughter had arrived in the Netherlands as an unaccompanied minor. She had applied for asylum status in February 2014 and she attained her majority in June 2014. In October 2014 the State Secretary granted her a five-year residence permit for persons granted asylum with effect from the date on which her application for asylum had been first made.

35. In December 2014 an application was made for family reunification in the case of her parents and three minor brothers, but this was ultimately rejected on the ground that by the date the application was made, the daughter had already attained her majority. Following a preliminary reference from the Dutch courts, this Court ultimately held in essence that Directive 2003/86 must be interpreted as

6 Judgment of 12 April 2018, *A and S* (C-550/16, EU:C:2018:248).

meaning that a third country national who was a minor at the time of their initial asylum application and who, in the course of the asylum procedure, subsequently attains the age of majority and is thereafter granted refugee status, must nonetheless be regarded as a 'minor' for the purposes of the reunification provisions of that directive.

36. It is perhaps worth observing that among the reasons given by the Court for this conclusion was that:

'Moreover, instead of prompting national authorities to treat applications for international protection from unaccompanied minors urgently in order to take account of their particular vulnerability, a possibility which is already explicitly offered by Article 31(7)(b) of Directive 2013/32, such an interpretation could have the opposite effect, frustrating the objective pursued both by that directive and by Directives 2003/86 and 2011/95 of ensuring that, in accordance with Article 24(2) of the Charter of Fundamental Rights, the best interests of the child is in practice a primary consideration for Member States in the application of those directives.

In addition, that interpretation would have the consequence of making it entirely unforeseeable for an unaccompanied minor who submitted an application for international protection to know whether he or she will be entitled to the right to family reunification with his or her parents, which might undermine legal certainty.'[7]

37. The Court then added:

'taking the date on which the application for international protection was submitted as that by reference which it is appropriate to assess the age of a refugee for the purposes of Article 10(3)(a) of Directive 2003/86 enables identical treatment and foreseeability to be guaranteed for all applicants who are in the same situation chronologically, by ensuring that the success of the application for family reunification depends principally upon facts attributable to the applicant and not to the administration such as the time taken processing the application for international protection or the application for family reunification …'[8].

38. The Court had earlier observed in that judgment that the scheme of the Directive dealing with minors conferred 'no discretion on Member States" and it follows from "the lack of a reference to the national law in that regard, that the determination of that moment cannot be left to each Member State to assess.'[9]

39. To my mind, all of this reasoning is more or less directly applicable to the present cases as well. It is true, of course, that, as the Conseil d'État (Council of State) observed in the decisions giving rise to the reference, there are some important factual differences between the present cases and that of *A and S*. Specifically, unlike the minor child in the latter case, none of the children in the present cases have been given refugee status. For my part, however, I do not think that these differences are dispositive so far as the present cases are concerned. I consider instead that the principles underlying *A and S* are highly relevant for the purposes of resolving the interpretative issues at stake in the present proceedings. I reach this conclusion for the following reasons.

40. First, just as in *A and S*, any interpretation of Directive 2003/86 which focuses on the date by reference to which the relevant application was made ensures that the success of the application for family reunification rests upon facts which, in the words of the Court, are 'attributable to the applicant'.[10] In other words, if the test of whether the applicant was a minor for family reunification

7 At paragraphs 58 and 59 of the judgment.

8 At paragraph 60 of the judgment.

9 At paragraph 45 of the judgment.

10 See judgment of 12 April 2018, *A and S* (C-550/16, EU:C:2018:248, paragraph 60).

purposes is governed by his or her age at the date of the relevant application, then this interpretation of Directive 2003/86 ensures that the outcome of any application for such reunification does not depend upon the vagaries of either the date upon which the administrative authority decided on the application or, for that matter, upon any subsequent delays inherent in the judicial system or, for that matter, the administrative system.

41. I quite appreciate that, as again pointed out by the Conseil d'État (Council of State), the Minister did in fact decide upon the application for family reunification on 25 March 2014 within the time limit specified by Belgian law. But that, however, is not quite the point. The applicants were, of course, entitled under Belgian law to appeal the decision of the Minister to the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings). They could not have known how long it would take that court to hear and decide upon the case, yet their legal rights and entitlements should not be made dependent on the happenstance of when precisely this might occur. If, for example, the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings had given its decision in February 2017 — some three years after the original decision — one of the applicants would still have been a minor. It could scarcely be suggested that that applicant's entitlement to legal reunification could turn on when precisely a judicial body (or, as the case may be, an administrative body) happened to pronounce its decision, provided, of course, that he was a minor at the date of the relevant application for family reunification.

42. In this respect it may also be noted that Article 18 of Directive 2003/86 expressly guarantees the right of the sponsor and the member of his or her family 'to mount a legal challenge where an application for family reunification is rejected …'. It may be assumed that the European legislator intended that this right should be an effective one and, specifically, that those proceedings should not be dismissed as inadmissible *merely* because the children in question subsequently attained their majority during the course of the proceedings.

43. In addition, as the Court had previously stated in *A and S*, any other interpretation of the directive might help to contribute to a situation where national courts are not prompted to treat applications from vulnerable minors with the urgency which such appeals require and thus might thereby act in a manner which would jeopardise the legal entitlements to family reunification of these self-same minor applicants.[11] Such a state of affairs would be at odds with one of the objectives of Article 24(2) of the Charter, namely, that the best interests of the child ought in practice to be a primary consideration for Member States in the application of Directive 2003/86. Here I would also note that at the oral hearing held on 30 January 2020 the representative for the applicants stated without opposition in response to a question from a member of the Court that the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings) had informed them that their case was not considered to be a priority.

44. This general conclusion is further underscored by a consideration of the principles underlying the right to an effective remedy under Article 47 of the Charter. As both this Court[12] and its sister court, the European Court of Human Rights,[13] have stressed with regard to Article 47 of the Charter and Article 6, paragraph 1 and Article 13 of the European Convention of Human Rights respectively, the right to an effective remedy implies that national remedies must be effective and real, not merely illusory and theoretical. It follows in turn that these remedies must be coherent and not lead to arbitrary or indefensible consequences.

11 See, to that effect, judgment of 12 April 2018, *A and S* (C-550/16, EU:C:2018:248, paragraph 58).

12 Judgment of 29 July 2019, *Torubarov* (C-556/17, EU:C:2019:626, paragraph 57).

13 See, e.g., judgment of 5 April 2018, *Zubac v. Croatia* (CE:ECHR:2018:0405JUD004016012, § 77 and §§ 97 to 99) and judgment of 10 September 2010, *MacFarlane v. Ireland* (CE:ECHR:2010:0910JUD003133306, § 112).

45. Yet this would be the case if the outcome of the applicants' right to appeal against the decision of the Minister refusing to grant them a residence permit for family reunification purposes were to depend on their personal status — i.e., whether they were still minors or whether they had become adults in the meantime — as of the date of the hearing of the appeal before the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings).

IV. Conclusion

46. For these reasons, therefore, I am of the view that the questions posed by the Conseil d'État (Counsil of State, Belgium) may conveniently be answered in one single response as follows:

Article 4 and Article 18 of Directive 2003/86/EC of 22 September 2003 on the right to family reunification, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union should be interpreted as meaning that a third country national who is below the age of 18 at the time of his or her request for family reunification in a Member State but who, in the course of the administrative procedure reviewing his or her request, or in the course of judicial proceedings subsequently challenging a refusal to grant family reunification attains his or her majority, should nonetheless be regarded as a 'minor' for the purposes of Article 4 of Directive 2003/86.