

**Request for a preliminary ruling from the Rechtbank Den Haag, sitting in Middelburg (Netherlands)
lodged on 13 June 2016 — K. v Staatssecretaris van Veiligheid en Justitie**

(Case C-331/16)

(2016/C 326/20)

Language of the case: Dutch

Referring court

Rechtbank Den Haag, sitting in Middelburg

Parties to the main proceedings

Applicant: K.

Defendant: Staatssecretaris van Veiligheid en Justitie

Questions referred

1. Does Article 27(2) of Directive 2004/38/EC ⁽¹⁾ permit a Union citizen, as in the present case, in respect of whom it has been established in law that Article 1(F)(a) and (b) of the Refugee Convention is applicable to him, to be declared undesirable because the exceptional seriousness of the crimes to which that Convention relates leads to the conclusion that it must be assumed that, by its very nature, the threat affecting one of the fundamental interests of society is permanently present?
2. If the answer to question 1 is in the negative, how should an assessment be carried out, in the context of an intended declaration of undesirability, of whether the conduct of a Union citizen, as referred to above, to whom Article 1(F)(a) and (b) of the Refugee Convention has been declared applicable, should be regarded as a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society? To what extent does the fact that the 1(F) conduct, as in the present case, took place long ago — in this case: in the period between 1992 and 1994 — play a role therein?
3. In what way does the principle of proportionality play a role in the assessment of whether a declaration of undesirability can be imposed on a Union citizen to whom Article 1(F)(a) and (b) of the Refugee Convention has been declared applicable, as in the present case? Should the factors mentioned in Article 28(1) of the Residence Directive be involved, either as part of such an assessment, or separately? Should the period of ten years' residence in the host country mentioned in Article 28(3)(a) be taken into account, either as part of such an assessment, or separately? Should the factors listed in paragraph 3.3 of the Guidance for better transposition and application of Directive 2004/38/EC, (COM (2009)313), be fully involved?

⁽¹⁾ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance) (OJ 2004 L 158, p. 77).

**Appeal brought on 16 June 2016 by the Portuguese Republic against the order of the General Court
(Eighth Chamber) delivered on 19 April 2016 in Case T-550/15 Portugal v Commission**

(Case C-337/16 P)

(2016/C 326/21)

Language of the case: Portuguese

Parties

Appellant: Portuguese Republic (represented by: L. Inez Fernandes, M. Figueiredo, P. Estêvão and J. Saraiva de Almeida, acting as Agents)

Other party: European Commission