



C/2023/630

13.11.2023

Judgment of the Court (Third Chamber) of 21 September 2023 (request for a preliminary ruling from the Raad van State — Netherlands) — S, A v Staatssecretaris van Veiligheid en Justitie

(Case C-151/22, ⁽¹⁾ Staatssecretaris van Veiligheid en Justitie (Political opinions in the host Member State))

(Reference for a preliminary ruling — Area of freedom, security and justice — Common asylum policy — Eligibility for refugee status — Directive 2011/95/EC — Article 10(1)(e) and (2) — Reasons for persecution — ‘Political opinion’ — Concept — Political opinions developed in the host Member State — Article 4 — Assessment of the well-founded fear of persecution on account of those political opinions)

(C/2023/630)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicants: S, A

Defendant: Staatssecretaris van Veiligheid en Justitie

Intervening party: United Nations High Commissioner for Refugees (UNHCR)

Operative part of the judgment

1. Article 10(1)(e) and (2) of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted

must be interpreted as meaning that, in order for the opinions, ideas or beliefs of an applicant who has not yet attracted the negative interest of the potential actors of persecution in his or her country of origin to fall within the concept of ‘political opinion’ or ‘political characteristic’, it is sufficient for that applicant to claim that he or she has or expresses those opinions, thoughts or beliefs. That is without prejudice to the assessment of whether the applicant’s fear of being persecuted on account of his or her political opinions is well founded.

2. Article 4(3) to (5) of Directive 2011/95

must be interpreted as meaning that, for the purposes of assessing whether an applicant’s fear of persecution on account of his or her political opinions is well founded, the competent authorities of the Member States must take account of the fact that those political opinions, owing to the degree of conviction with which they are expressed or the possible engagement by that applicant in activities to promote those opinions, could have attracted or may attract the negative interest of the actors of potential persecution in that applicant’s country of origin. It is not however required that the same opinions be so deeply rooted in the applicant that he or she could not refrain, if returned to his or her country of origin, from manifesting them, thereby exposing himself or herself to the risk of suffering acts of persecution within the meaning of Article 9 of that directive.

⁽¹⁾ OJ C 213, 30.5.2022.