

Request for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria) lodged on 19 December 2016 — Nigyar Rauf Kaza Ahmedbekova, Rauf Emin Ogla Ahmedbekov v Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite

(Case C-652/16)

(2017/C 086/14)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: Nigyar Rauf Kaza Ahmedbekova, Rauf Emin Ogla Ahmedbekov

Defendant: Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite

Questions referred

1. Does it follow from Article 78(1) and 78(2)(a), (d) and (f) of the Treaty on the Functioning of the European Union and from recital 12 and Article 1 of Directive 2013/32/EU ⁽¹⁾ of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) that the ground for the inadmissibility of applications for international protection provided for in Article 33(2)(e) of that directive constitutes a directly effective provision which the Member States may not choose not to apply, for example by applying more favourable provisions of national law under which the initial application for international protection must, in accordance with Article 10(2) of that directive, be examined first from the point of view of whether the applicant fulfils the conditions for qualification as a refugee and then from the point of view of whether that person is eligible for subsidiary protection?
2. Does it follow from Article 33(2)(e) of Directive 2013/32, in conjunction with Article 7(3) and Article 2(a), (c) and (g) and recital 60 of that directive, that, in the circumstances of the main proceedings, an application for international protection lodged by a parent on behalf of an accompanied minor is inadmissible where the reason given for the application is that the child is a member of the family of the person who has applied for international protection on the ground that he is a refugee within the meaning of Article 1(A) of the Geneva Convention on Refugees?
3. Does it follow from Article 33(2)(e) of Directive 2013/32, in conjunction with Article 7(1) and Article 2(a), (c) and (g) and recital 60 of that directive, that, in the circumstances of the main proceedings, an application for international protection lodged on behalf of an adult is inadmissible where the only reason given for the application in the proceedings before the relevant administrative authority is that the applicant is a member of the family of the person who has applied for international protection on the ground that he is a refugee within the meaning of Article 1(A) of the Geneva Convention on Refugees and, at the time when he lodges the application, the applicant has no right to carry on an occupation?
4. Does Article 4(4) of Directive 2011/95/EU ⁽²⁾ 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 (recast), in conjunction with recital 36 of that directive, require that the assessment of whether there is a well-founded fear of being persecuted or a real risk of suffering serious harm be carried out only on the basis of facts and circumstances relating to the applicant?
5. Does Article 4 of Directive 2011/95, in conjunction with recital 36 thereof and Article 31(1) of Directive 2013/32, permit national case-law in a Member State which:
 - (a) obliges the responsible authority to assess the applications for international protection lodged by members of one and the same family in a joint procedure, in cases where those applications are based on the same facts, specifically the assertion that only one of the family members is a refugee;

- (b) obliges the responsible authority to suspend the proceedings relating to applications for international protection lodged by family members who do not personally meet the conditions for such protection until such time as the proceedings relating to the application lodged by the family member on the ground that the person concerned is a refugee within the meaning of Article 1(A) of the Geneva Convention on Refugees are concluded; and

is that case-law also permissible in the light of considerations relating to the best interests of the child, maintenance of family unity and respect for the right to private and family life and the right to remain in the Member State pending the assessment of the application, more specifically in the light of Articles 7, 18 and 47 of the Charter of Fundamental Rights of the European Union, recitals 12 and 60 and Article 9 of Directive 2013/32, recitals 16, 18 and 36 and Article 23 of Directive 2011/95 and recitals 9, 11 and 35 and Articles 6 and 12 of Directive 2013/33/EU⁽³⁾ of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection?

6. Does it follow from recitals 16, 18 and 36 and Article 3 of Directive 2011/95, in conjunction with recital 24 and Article 2(d) and (j), Article 13 and Article 23(1) and (2) of that directive, that a provision of national law, such as Article 8(9) of the *Zakon za ubezhishteto i bezhantsite* (Law on asylum and refugees), at issue in the main proceedings, pursuant to which the members of the family of a foreign national who has been granted refugee status are also regarded as refugees in so far as this is compatible with their personal status and there are no reasons in national law for excluding the granting of refugee status, is permissible?
7. Does it follow from the rules relating to the reasons for persecution contained in Article 10 of Directive 2011/95 that the bringing of a complaint before the European Court of Human Rights against the State of origin of the person concerned establishes that person's membership of a particular social group within the meaning of Article 10(1)(d) of that directive, or that the bringing of that complaint is to be regarded as constituting a political opinion within the meaning of Article 10(1)(e) of the directive?
8. Does it follow from Article 46(3) of Directive 2013/32 that the court is obliged to examine the substance of new grounds for international protection which have been put forward in the course of the judicial proceedings but which were not relied on in the action brought against the decision refusing international protection?
9. Does it follow from Article 46(3) of Directive 2013/32 that the court is obliged to assess the admissibility of the application for international protection on the basis of Article 33(2)(e) of that directive in the proceedings brought against the decision refusing international protection, in so far as, in accordance with Article 10(2) of that directive, the contested decision assessed the application first from the point of view of whether the applicant meets the conditions for qualification as a refugee and then from the point of view of whether that applicant is eligible for subsidiary protection?

⁽¹⁾ OJ 2013 L 180, p. 60.

⁽²⁾ OJ 2011 L 337, p. 9.

⁽³⁾ OJ 2013 L 180, p. 96.

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 21 December 2016 — Achim Kollroß v Finanzamt Dachau

(Case C-660/16)

(2017/C 086/15)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Achim Kollroß