Reports of Cases

OPINION OF ADVOCATE GENERAL
RICHARD DE LA TOUR
delivered on 19 October 2023[1]

Case C-352/22

A.
other party:
Generalstaatsanwaltschaft Hamm

(Request for a preliminary ruling from the Oberlandesgericht Hamm (Higher Regional Court, Hamm, Germany))

(Reference for a preliminary ruling – Common policy on asylum – Decision granting refugee status adopted by a Member State – Refugee residing in another Member State after that decision – Request for extradition issued by the refugee's third country of origin and addressed to the Member State of residence – Directive 2011/95/EU – Article 21(1) – Directive 2013/32/EU – Article 9(2) and (3) – Effect of the decision granting refugee status in the context of the extradition procedure – Article 78(2) TFEU – Common European Asylum System – Absence of a principle of mutual recognition between Member States of decisions granting refugee status – Article 18 and Article 19(2) of the Charter of Fundamental Rights of the European Union – Protection of the refugee against extradition – Principle of non-refoulement)

[1] Original language: French.

I. Introduction

1. It has been observed that 'refugee law and extradition law have a long-standing, deep and complex relationship'.[2] However, those two branches of international law are not to be confused and they have each gradually acquired 'their own normative autonomy',[3] while having to work with international human rights law[4] which has firmly established the principle of non-refoulement in the legal landscape.[5]

2. Moreover, as the United Nations High Commissioner for Refugees (UNHCR) has stated,[6] 'international refugee protection and criminal law enforcement are not mutually exclusive. The 1951 Convention relating to the Status of Refugees … and its 1967 Protocol do not shield refugees or asylum-seekers who have engaged in criminal conduct from prosecution for their acts, nor does international refugee law preclude their extradition in all circumstances. … However, where the person whose extradition is sought … is a refugee or asylum-seeker, his or her special protection needs must be taken into consideration'.

3. The present request for a preliminary ruling gives the Court an opportunity to clarify the relationship between the rules of EU law on international protection and the competence of the Member States in respect of extradition in order to take into account the special protection needs of a person who has refugee status in a Member State other than the one responsible for examining a request for extradition concerning that person.

4. This request for a preliminary ruling concerns the interpretation of Article 9(2) and (3) of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection,[7] and Article 21(1) 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.[8]

5. The present case raises the delicate question of whether a decision granting refugee status adopted by a Member State has a binding effect on the other Member States, in the sense that they are bound by that decision and cannot therefore depart from it. That question is of considerable importance for the Common European Asylum System as a whole. It is raised here in the context of a request for extradition issued by the Turkish authorities and addressed to the

2 See Chetail, V., 'Les relations entre le droit de l'extradition et le droit des réfugiés: étude de l'article 1F(B) de la convention de Genève du 28 juillet 1951', in Chetail, V. and Laly-Chevalier, C., *Asile et extradition – Théorie et pratique de l'exclusion du statut de réfugié*, Bruylant, Brussels, 2014, pp. 65 to 91, in particular p. 65. That author explains that, 'from a historical point of view, extradition law has shaped the legal categories of refugee law following a lengthy normative process which experienced its heyday in the nineteenth century … In fact and in law, asylum was long considered in inter-State relations to be an exception to the rule of extradition. The principle of non-extradition of political offenders was at that time the most visible manifestation of asylum, the refusal to extradite expressing the protection conferred on the refugee by his or her host State'. Thus, 'the principle of non-extradition for political crimes represents in many respects the conceptual and normative matrix of what would later become international refugee law. Its contribution is twofold. It concerns the two founding concepts of contemporary refugee law, namely the definition of a refugee and the principle of non-refoulement'.

3 See Chetail, V., cited above, p. 66. Those two branches of law 'now have different legal bases, specific procedures and a purpose of their own'.

4 See, on the protection of fundamental rights in the field of extradition, Costa, M.J., 'Human Rights', *Extradition Law: Reviewing Grounds for Refusal from the Classic Paradigm to Mutual Recognition and Beyond*, Brill Nijhoff, Leiden, 2019, pp. 73 to 114.

5 See Chetail, V., cited above, p. 89.

6 See *Guidance Note on Extradition and International Refugee Protection*, April 2008, 'UNHCR Guidance Note' (paragraph 2).

7 OJ 2013 L 180, p. 60.

8 OJ 2011 L 337, p. 9.

German authorities for the purposes of a criminal prosecution against a Turkish national residing in Germany, who had previously been granted refugee status by the Italian authorities on account of a risk of political persecution in Türkiye.

6. Thus, the Court is called upon to decide whether the decision granting refugee status taken by one Member State has, under EU law, binding effect in the context of an extradition procedure conducted in another Member State, in the sense that the authority competent to conduct that procedure would be obliged to refuse extradition for as long as that decision is in force.

7. In this Opinion, I shall set out the reasons why I consider that, even though a decision granting refugee status adopted in a Member State is not, as EU law currently stands, binding on the authority responsible for examining a request for extradition in another Member State, the fact remains that the extradition procedure must be conducted in accordance with the right to asylum enshrined in Article 18 of the Charter of Fundamental Rights of the European Union [9] and, more broadly, the principle of non-refoulement which is guaranteed, as a fundamental right, in the same article of the Charter, read in conjunction with Article 33 of the Convention relating to the Status of Refugees, [10] as supplemented by the Protocol relating to the Status of Refugees [11] ('the Geneva Convention'), and Article 19(2) of the Charter. [12]

II. Legal framework

A. International law

1. Geneva Convention

8. Article 33(1) of the Geneva Convention provides:

'No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.'

2. European Convention on Extradition

9. Extradition relations between the Federal Republic of Germany and the Republic of Türkiye are governed by the European Convention on Extradition. [13] Article 3(1) and (2) of that convention is worded as follows:

'1. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political offence or as an offence connected with a political offence.

[9] 'The Charter'.

[10] Signed in Geneva on 28 July 1951 (*United Nations Treaty Series*, Vol. 189, p. 150, No 2545 (1954)) and entered into force on 22 April 1954.

[11] Concluded in New York on 31 January 1967 and entered into force on 4 October 1967.

[12] See, inter alia, judgment of 6 July 2023, *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)* (C-663/21, 'judgment in *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)*', EU:C:2023:540, paragraph 49 and the case-law cited).

[13] Signed in Paris on 13 December 1957 (*Council of Europe Treaty Series*, No 24).

2. The same rule shall apply if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.'

B. European Union law

1. Directive 2011/95

10. Article 11 of Directive 2011/95 determines the circumstances in which a third-country national or a stateless person ceases to be a refugee. Article 12 of that directive concerns the situations in which refugee status may be excluded.

11. In accordance with Article 13 of that directive, 'Member States shall grant refugee status to a third-country national or a stateless person who qualifies as a refugee in accordance with Chapters II and III'.

12. Article 14 of that directive concerns the 'revocation of, ending of or refusal to renew refugee status'.

13. Article 21 of Directive 2011/95, entitled 'Protection from refoulement', provides in paragraph 1:

'Member States shall respect the principle of non-refoulement in accordance with their international obligations.'

2. Directive 2013/32

14. Article 9 of Directive 2013/32, entitled 'Right to remain in the Member State pending the examination of the application', is worded as follows:

'1. Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a decision in accordance with the procedures at first instance set out in Chapter III. That right to remain shall not constitute an entitlement to a residence permit.

2. Member States may make an exception only where a person makes a subsequent application referred to in Article 41 or where they will surrender or extradite, as appropriate, a person either to another Member State pursuant to obligations in accordance with a European arrest warrant … or otherwise, or to a third country or to international criminal courts or tribunals.

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where the competent authorities are satisfied that an extradition decision will not result in direct or indirect refoulement in violation of the international and Union obligations of that Member State.'

C. German law

15. Paragraph 6(2) of the Gesetz über die internationale Rechtshilfe in Strafsachen (Law on international mutual legal assistance in criminal matters) of 23 December 1982,[14] in the version applicable to the facts in the main proceedings ('the IRG'), reads as follows:

'Extradition is not permissible where there are substantial grounds for believing that the requested person, if extradited, would be persecuted or punished on account of his or her race, religion, nationality, membership of a particular social group or political opinion, or that his or her position may be prejudiced for any of these reasons.'

16. Paragraph 6 of the Asylgesetz (Law on Asylum) of 26 June 1992,[15] in the version published on 2 September 2008,[16] last amended by the Law of 9 July 2021,[17] states:

'The decision on the application for asylum shall be binding in all matters in which recognition of entitlement to asylum or the granting of international protection within the meaning of point 2 of Paragraph 1(1) is legally relevant. This does not apply to extradition proceedings and proceedings under Paragraph 58a of the Aufenthaltsgesetz [(Law on Residence)[18]].'

III. The facts in the main proceedings and the question referred for a preliminary ruling

17. A. is a Turkish national of Kurdish ethnicity. He left Türkiye in 2010.

18. By final decision of 19 May 2010, the Italian authorities recognised A. as a refugee on the ground that he was at risk of political persecution by the Turkish authorities because of his support for the Kurdistan Workers' Party (PKK). That status is valid until 25 June 2030.

19. Since July 2019, A. has resided in Germany.

20. On the basis of an arrest warrant issued on 3 June 2020 by a Turkish court, A. was the subject of an alert issued by the International Criminal Police Organization (Interpol) for his arrest with a view to his extradition for the purpose of a criminal prosecution for murder. He is accused of having, on 9 September 2009 in Bingöl (Türkiye), following a verbal altercation with his father and brother, fired a shot from a rifle which allegedly hit his mother. She died in hospital as a result of her injuries.

21. A. was arrested in Germany on 18 November 2020 and was placed in detention pending extradition from 23 November 2020 until 14 April 2022.

22. By order of 2 November 2021, the Oberlandesgericht Hamm (Higher Regional Court, Hamm, Germany), which is the referring court in the present case, declared that the extradition of A. to Türkiye was admissible. According to that court, there was no bar to extradition in accordance with Paragraph 6(2) of the IRG and Article 3(1) and (2) of the European Convention on Extradition. That court takes the view, in the light of the arguments put forward by A., the

[14] BGBl. 1982 I, p. 2071.
[15] BGBl. 1992 I, p. 1126.
[16] BGBl. 2008 I, p. 1798.
[17] BGBl. 2021 I, p. 2467.
[18] BGBl. 2008 I, p. 162.

documents which he provided and the information submitted to it concerning the asylum procedure in Italy, that there are no serious grounds for believing that the extradition request, based on a non-political offence, has been made for the purpose of prosecuting or punishing A. on account of his political opinions or that, in the event of his extradition, his position may be prejudiced for such reasons.

23. According to that court, the decision to grant refugee status, taken by the Italian authorities, does not preclude the extradition of A. to Türkiye. They are two separate procedures which may give rise to divergent decisions. That said, although a decision granting refugee status does not, in accordance with German law, have binding effect for the purposes of the extradition procedure, it may constitute evidence for the purposes of the independent examination of the conditions laid down in Paragraph 6(2) of the IRG and Article 3(1) and (2) of the European Convention on Extradition.

24. The referring court thus carried out its own assessment of the risk of the political persecution of A. in the light of the situation in Türkiye. On the basis of the information in its possession, it considered that the guarantee given by the Turkish authorities, that, in the event of A.'s extradition to Türkiye, the proceedings that would be conducted against him would guarantee his right to a fair trial, was sound. In addition, that court considers that, in the event of A.'s extradition to Türkiye, he would not face a serious and real risk of being subject to political persecution there, with the result that the principle of non-refoulement under Article 33 of the Geneva Convention did not preclude that extradition either.

25. That order was annulled by the Bundesversfassungsgericht (Federal Constitutional Court, Germany) in the course of a constitutional appeal brought by A. As is apparent, in essence, from the order of that court of 30 March 2022, the Oberlandesgericht Hamm (Higher Regional Court, Hamm) had failed to refer to the Court for a preliminary ruling the question, which is relevant for the purposes of resolving the dispute in the main proceedings and which is without precedent, of whether, under EU law, the granting of refugee status to A. by the Italian authorities is binding in respect of the extradition procedure in Germany and therefore necessarily precludes his extradition to Türkiye.[19]

26. Following the referral of the case back to the Oberlandesgericht Hamm (Higher Regional Court, Hamm), that court must again rule on the extradition request. That court points out that the question referred to in the previous point of this Opinion, which has not been decided by the Court, is a matter of dispute in legal literature.

27. Thus, some legal literature supports the binding effect of a decision granting refugee status in the context of an extradition procedure. It infers from Article 9(2) and (3) of Directive 2013/32 – which provides for the possibility of extraditing an applicant for international protection to a third country provided that the competent authorities are satisfied that the extradition decision does not result in direct or indirect refoulement – that, from the point at which a decision has been given by a Member State granting refugee status, the extradition of the person enjoying that status is no longer authorised by EU law. The second sentence of Paragraph 6 of the Law on Asylum should then be interpreted in accordance with EU law. Furthermore, that legal literature states that Directives 2011/95 and 2013/32 lay down specific rules for the cessation, exclusion or

[19] The national court states that, if that question were to be answered in the affirmative, since A. would then have to be considered to be at risk of political persecution, there would be a bar to extradition in accordance with the combined provisions of Paragraph 6(2) of the IRG and Article 3(2) of the European Convention on Extradition. That extradition should therefore be refused.

revocation of refugee status.[20] If a decision granting refugee status did not have binding effect in the context of an extradition procedure and if it was therefore possible to respond favourably to a request for extradition of a refugee recognised as such by the authorities of another Member State, those rules would be circumvented.

28. According to other pieces of legal literature, by contrast, the EU legislature is said to have taken the view that asylum and extradition procedures are independent of each other, which means that a decision granting refugee status cannot have binding effect in the context of an extradition procedure. A long period of time may have elapsed between the decision granting refugee status and the initiation of the extradition procedure, and therefore the situation may have changed fundamentally. That procedure could be the first opportunity to examine the grounds for exclusion from refugee status, which could justify revocation of that status. If a decision granting refugee status were recognised as having binding effect in the context of an extradition procedure, a revocation procedure would first have to be initiated beforehand, which is not required by Directive 2011/95. Nevertheless, compliance with the principle of non-refoulement should be respected, in accordance with Article 21(1) of Directive 2011/95.

29. The referring court agrees with the latter interpretation and, moreover, maintains the findings already made in its order of 2 November 2021.

30. It points out that asylum and extradition procedures are independent of each other. Directives 2011/95 and 2013/32 do not contain any express provision giving binding effect to a decision granting refugee status in the context of an extradition procedure.

31. Recognition of such an effect would mean, moreover, that, in the event of the discovery, during the extradition procedure, of new factors justifying a different assessment of the risk of political persecution faced by the requested person, it would be necessary to wait until the authority of the Member State in which refugee status was granted has, where appropriate, withdrawn that status. This would prolong the extradition procedure, which would be incompatible with the principle of urgency, in particular where the person concerned is being detained pending extradition.

32. In addition, the national court points out that it is consistent with the legitimate objective of preventing impunity, recognised by the Court,[21] to take the view that, despite the granting of refugee status by a Member State, the extradition of the requested person to his or her third country of origin is possible, in so far as that extradition is not contrary to international law or to EU law, in particular Article 18 and Article 19(2) of the Charter. In that regard, although German law allows, in theory, criminal proceedings to be brought against the requested person in the absence of extradition, such proceedings would not be possible in practice in view of the lack of evidence available in relation to events that took place in Türkiye, which could lead to impunity for the requested person.

[20] The referring court cites, in that regard, Articles 11, 12 and 14 of Directive 2011/95 and Articles 44 and 45 of Directive 2013/32.

[21] That court refers to the judgment of 2 April 2020, *Ruska Federacija* (C-897/19 PPU, 'judgment in *Ruska Federacija*', EU:C:2020:262, paragraph 60 and the case-law cited).

33. In those circumstances, the Oberlandesgericht Hamm (Higher Regional Court, Hamm) decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

'Must Article 9(2) and (3) of [Directive 2013/32] in conjunction with Article 21(1) of [Directive 2011/95] be interpreted as meaning that the final recognition of a person as a refugee within the meaning of the Geneva Convention … in another Member State … is binding for the purposes of the extradition procedure in the Member State requested to extradite such a person on account of the obligation under EU law to interpret national law in conformity with the directives (third paragraph of Article 288 TFEU and Article 4(3) TEU), that is to say, is binding in such a way that extradition of the person to the third country or country of origin is thereby necessarily precluded until his or her recognition as a refugee has been revoked or has expired?'

34. Written observations were submitted by A., the German and Italian Governments and the European Commission.

35. A hearing was held on 12 June 2023 at which A., the German and Italian Governments and the Commission were present.

IV. Analysis

36. By its question for a preliminary ruling, the national court is asking the Court to clarify the relationship between the rules of EU law on international protection and the competence of the Member States in respect of extradition. More specifically, it is a matter of defining the effect that a decision granting refugee status adopted by a Member State for the benefit of a person has on extradition proceedings conducted in another Member State in respect of that person, where the extradition request emanates from the third country from which that person has fled. Is it binding on the authority of the Member State to which the extradition request has been made, with the result that that authority is bound in its assessment by such a decision, or does it merely constitute a factor which must be taken into account by that authority? Does a favourable response to the extradition request mean that refugee status must first be revoked? That court refers, in that regard, to Article 9(2) and (3) of Directive 2013/32 and Article 21(1) of Directive 2011/95, to which I consider it appropriate to add Article 78(2) TFEU and Article 18 and Article 19(2) of the Charter.

37. As a preliminary point, I would point out that, while, in the absence of an international convention on this subject between the European Union and the third State concerned, in this case Türkiye, the rules on extradition fall within the competence of the Member States, those same Member States are required to exercise that competence in accordance with EU law. [22]

38. Moreover, in so far as A. obtained refugee status in Italy in accordance with the rules of secondary EU law on international protection and subsequently exercised his right to move and reside in a Member State other than that which granted him refugee status, [23] the situation at

[22] See judgment in *Ruska Federacija* (paragraph 48).

[23] It appears from the information provided by the German Government at the hearing that this is a long-term residence under Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44), as amended by Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 (OJ 2011 L 132, p. 1) ('Directive 2003/109'). The latter directive extended the scope of Directive 2003/109 to cover beneficiaries of international protection.

issue in the main proceedings falls within the scope of EU law. It follows that the provisions of the Charter, in particular Article 18 and Article 19(2) thereof, are applicable in the context of the examination of the extradition request at issue in the main proceedings.

39. As is apparent from Paragraph 6 of the Law on Asylum, the Italian decision granting A. refugee status is not binding in the context of an extradition procedure conducted in Germany and must not therefore lead automatically to a refusal to extradite. The same would apply, moreover, if this was a decision granting refugee status taken by a German authority.

40. By its question referred for a preliminary ruling, the national court asks the Court to inform it whether the approach should be different under EU law. In other words, should EU law be regarded as requiring a Member State to refuse to extradite a person for as long as that person enjoys refugee status granted by another Member State?

41. The parties to the proceedings and other interested parties agree that the existence of a decision granting refugee status in one Member State must play an important role in an extradition procedure conducted in another Member State. There is disagreement only as to the precise extent of the effects to be attributed to such a decision.

42. In order to answer the question whether a decision granting refugee status adopted by a Member State has binding effect in the context of an extradition procedure conducted in another Member State, it is necessary to clarify the obligations incumbent on the latter Member State in a situation governed by EU law.

43. As I stated above, Article 18 and Article 19(2) of the Charter are applicable in the context of the examination of the extradition request at issue in the main proceedings. Thus, it is for the requested Member State to verify that extradition will not prejudice the fundamental rights of the requested person, in particular the rights referred to in those provisions.

44. Under Article 18 of the Charter, 'the right to asylum shall be guaranteed with due respect for the rules of the [Geneva Convention] and in accordance with [the Treaties]'. Moreover, under Article 19(2) of the Charter, 'no one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment'.

45. The right to asylum is guaranteed on the basis of the principle of non-refoulement enshrined in Article 33(1) of the Geneva Convention. In EU law, that principle is guaranteed, as a fundamental right, in Article 18 of the Charter, read in conjunction with Article 33 of the Geneva Convention, and in Article 19(2) of the Charter.[24] The Member States are also required to respect that principle under Article 21(1) of Directive 2011/95. As the UNHCR states, 'the principle of non-refoulement, which prohibits the forcible removal of refugees to a risk of persecution, is the cornerstone of the international refugee protection regime'.[25]

46. The Court has consistently held since its judgment of 6 September 2016, *Petruhhin*,[26] that, where the requested Member State considers extraditing a person falling within the scope of EU law at the request of a third State, that Member State must verify that the extradition will not

[24] See, inter alia, judgment in *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)* (paragraph 49 and the case-law cited).

[25] See UNHCR Guidance Note (paragraph 8).

[26] C-182/15, EU:C:2016:630.

prejudice the rights guaranteed by the Charter, in particular Article 19(2) thereof.[27] Member States may not remove, expel or extradite a foreign national where there are substantial grounds for believing that he or she will face a genuine risk, in the country of destination, of being subjected to treatment prohibited by Article 4 and Article 19(2) of the Charter, which prohibit in absolute terms torture and inhuman or degrading punishment or treatment irrespective of the conduct of the person concerned, as well as removal to a State where there is a serious risk of a person being subjected to such treatment.[28] In that regard, EU law provides more extensive international protection for refugees than that guaranteed by the Geneva Convention, which, for its part, in the situations referred to in Article 33(2) thereof, permits the refoulement of a refugee to a country where his or her life or freedom would be threatened.[29]

47. It is also for the requested Member State to guarantee the effective enjoyment of the right enshrined in Article 18 of the Charter.[30] As long as the requested person satisfies the criteria to be a refugee, which, according to the Court, must be distinguished from refugee status,[31] that article precludes his or her extradition to a country where he or she risks being persecuted.

48. Thus, the principle of non-refoulement precludes a Member State from extraditing a third-country national who has been granted refugee status in another Member State to a country in respect of which substantial grounds have been shown for believing that, in the event of extradition, that national would be exposed to a real risk of treatment contrary to Article 18 or Article 19(2) of the Charter.[32]

49. In the context of its examination of whether the principle of non-refoulement has been respected, is the requested Member State bound by a decision granting refugee status adopted by another Member State, with the result that it must refuse to extradite the person in question for as long as that person enjoys that status?

50. I think not, for two main reasons.

51. In the first place, in so far as EU law, at the present stage of its development, does not provide for mutual recognition between Member States of decisions granting refugee status, it seems to me to be impossible for such a decision adopted by a Member State to have binding effect in the context of an extradition procedure conducted in another Member State (A).

[27] See judgments of 6 September 2016, *Petruhhin* (C-182/15, EU:C:2016:630, paragraph 60); of 13 November 2018, *Raugevicius* (C-247/17, EU:C:2018:898, paragraph 49); in *Ruska Federacija* (paragraphs 63 and 64); of 17 December 2020, *Generalstaatsanwaltschaft Berlin (Extradition to Ukraine)* (C-398/19, EU:C:2020:1032, paragraph 45); and of 22 December 2022, *Generalstaatsanwaltschaft München (Request for extradition to Bosnia and Herzegovina)* (C-237/21, EU:C:2022:1017, paragraph 55).

[28] See, inter alia, judgment in *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)* (paragraph 36 and the case-law cited).

[29] See, inter alia, judgment in *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)* (paragraph 38 and the case-law cited).

[30] See, to that effect, judgment of 22 June 2023, *Commission* v *Hungary (Declaration of intent prior to an asylum application)* (C-823/21, EU:C:2023:504, paragraph 52).

[31] See judgment of 14 May 2019, *M and Others (Revocation of refugee status)* (C-391/16, C-77/17 and C-78/17, EU:C:2019:403, 'judgment in *M and Others (Revocation of refugee status)*', EU:C:2019:403). I shall return to this in the reasoning below.

[32] See, by analogy, judgment in *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)* (paragraph 50 and the case-law cited). In extradition proceedings, verification of compliance with the principle of non-refoulement is justified by the fact that the person whose extradition is requested for a non-political crime may be politically persecuted, for example if the criminal prosecution is merely a reason or pretext for persecuting him or her on account of characteristics relevant to asylum.

52. In the second place, the extradition procedure and the procedure for revocation of refugee status are two separate procedures, with the result that extradition cannot be made subject to the prior revocation of the requested person's refugee status, but is subject to an independent and up-to-date examination by the competent authority for extradition of compliance with the principle of non-refoulement (B).

53. However, the decision granting refugee status taken by a Member State is a particularly substantial piece of evidence which must be taken into account in the context of the extradition procedure conducted in another Member State (C). I also consider that that procedure must be conducted in accordance with the principle of sincere cooperation laid down in Article 4(3) TEU in order to ensure the consistency of decisions taken by the Member States within the area of freedom, security and justice ('the AFSJ'), which presupposes that an exchange of information has taken place between the competent authorities for extradition and asylum (D).

A. The absence of a principle of mutual recognition between Member States of decisions granting refugee status

54. The question whether a decision granting refugee status taken by a Member State has binding effect in the context of an extradition procedure conducted in another Member State is closely linked to the question whether or not there is a principle of mutual recognition between Member States of decisions granting refugee status.

55. Beyond the present case, the Court will have to rule on this question in connection with three other cases which are currently pending. [33] Although, compared with those three cases, the present case arises in a different context, that of extradition, all four raise the question, on the basis of the principle of mutual recognition, of the possible binding effect in one Member State of a decision granting refugee status adopted in another Member State. The Court is therefore called upon in these cases to clarify the room for manoeuvre available to either an authority responsible for examining a request for international protection or an authority responsible for examining a request for extradition, in the presence of a decision granting refugee status previously adopted by another Member State.

56. At the hearing, the parties to the proceedings and other interested parties were invited by the Court to express their views on that delicate issue.

[33] The cases in question are *Bundesrepublik Deutschland (Effect of a decision granting refugee status)* (C-753/22), *El Baheer* (C-288/23) and *Cassen* (C-551/23). Those three cases concern applications for international protection from third-country nationals or stateless persons respectively, who have each been granted refugee status in another Member State, namely the Hellenic Republic. In such a situation, the Member State with which the new application has been lodged may exercise the option, provided for in Article 33(2)(a) of Directive 2013/32, of declaring that application inadmissible on the ground that refugee status has been granted by the other Member State. However, such a possibility must be ruled out, in accordance with the case-law of the Court, where the person concerned runs a serious risk of being subject, in that other Member State, to inhuman and degrading treatment contrary to Article 4 of the Charter, on account of the living conditions that he or she could be expected to encounter there (see judgment of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraphs 83 to 94, and order of 13 November 2019, *Hamed and Omar*, C-540/17 and C-541/17, not published, EU:C:2019:964, paragraphs 34 to 36). Accordingly, the competent authority of the Member State with which the new application has been lodged cannot rely on Article 33(2)(a) of Directive 2013/32 to reject that application as being inadmissible. That authority must therefore consider that application to be admissible and rule on the substance of it. In each of those cases, the referring court then asks the Court whether, under the rules of the Common European Asylum System, that authority must carry out an independent examination of the new application or whether it is obliged to grant the applicant refugee status without verifying the substantive conditions for that protection, by reason only of the fact that another Member State has already granted that status to that applicant.

57. Like the German Government and the Commission, I consider that EU law does not, at the present stage of its development, provide for the principle of mutual recognition between Member States of decisions granting refugee status. [34]

58. Admittedly, as argued, in essence, by the Italian Government, which supports the mutual recognition of such decisions, it could be considered that the spirit of the Common European Asylum System militates in favour of such recognition, which would mean that a decision granting refugee status taken by a Member State should be binding on the authorities of the other Member States.

59. Article 78(2)(a) TFEU provides for the adoption of measures for a Common European Asylum System comprising a uniform status of asylum for nationals of third countries, valid throughout the European Union. As is confirmed by recital 3 of Directive 2011/95, that system, of which both that directive and Directive 2013/32 are part, is based on the full and inclusive application of the Geneva Convention and on the guarantee that nobody will be sent back to a place where they again risk being persecuted. [35]

60. Moreover, the Common European Asylum System is based on the principle of mutual trust, [36] which is itself the basis and condition of the principle of mutual recognition. According to the Court, the principle of mutual trust requires each of the Member 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. [37]

61. Consequently, in the context of the Common European Asylum System, it must be presumed that the treatment of applicants for international protection in each Member State complies with the requirements of the Charter, the Geneva Convention and the Convention for the Protection of Human Rights and Fundamental Freedoms. [38] That applies, in particular, to the application of Article 33(2)(a) of Directive 2013/32, [39] which constitutes, in the context of the Common European Asylum System established by that directive, an expression of the principle of mutual trust. [40]

[34] See, inter alia, on that finding, European Parliament resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration (2015/2095(INI)), paragraph 39. See, in favour of a development of EU law on this subject, European Council on Refugees and Exiles, *Protected across borders: Mutual recognition of asylum decisions in the EU – ECRE's assessment of legal provisions and practice on mutual recognition, and its recommendations for reforms to create a status 'valid throughout the Union'*, 2016. See, also, Rasche, L., 'Un nouveau départ dans la politique d'asile de l'UE', available at: https://institutdelors.eu/wp-content/uploads/2020/10/7-MIGRATION-Rasche-FR.pdf, p. 5. Mutual recognition of decisions granting refugee status is certainly indissociable from further harmonisation of the conditions and procedures for that purpose: see, in that regard, Proposal for a Regulation of the European Parliament and of the Council, presented on 13 July 2016, 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 and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (COM(2016) 466 final).

[35] See judgment in *M and Others (Revocation of refugee status)* (paragraph 80 and the case-law cited).

[36] See judgment of 22 February 2022, *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)* (C-483/20, EU:C:2022:103, paragraph 37).

[37] See, inter alia, judgment of 22 February 2022, *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)* (C-483/20, EU:C:2022:103, paragraph 28 and the case-law cited).

[38] Signed at Rome on 4 November 1950.

[39] I would point out that, under that provision, a Member State may consider an application for international protection as inadmissible where another Member State has granted such protection.

[40] See, inter alia, judgment of 22 February 2022, *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)* (C-483/20, EU:C:2022:103, paragraph 29 and the case-law cited).

62. Furthermore, in accordance with the rules laid down by 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, [41] a single Member State is to decide on such an application. In addition, the Common European Asylum System provides for the application, to a large extent, of the same rules for examining applications, irrespective of which Member State is responsible for that examination. [42] It should also be noted that the main objective of Directive 2011/95, as is apparent from Article 1 and recital 12 thereof, is to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection and to ensure that a minimum level of benefits is available for those persons in all Member States. [43]

63. That application of common rules and criteria could entail, as a natural consequence, the existence of a principle of mutual recognition between the Member States of decisions granting refugee status, which would mean that such decisions should be binding on the authorities of all those States. That could then have the effect of preventing a competent determining authority from departing from the conclusion reached by the authority that previously granted a person refugee status in another Member State. That could also have the effect of preventing an authority to which an extradition request has been made from responding favourably to such a request, the underlying idea being that, by agreeing to the extradition of a person who has been granted refugee status in another Member State, that authority would de facto deprive that person of that status.

64. The fact remains that the EU legislature has not yet fully achieved, by providing for a principle of mutual recognition between the Member States of decisions granting refugee status and by specifying the detailed arrangements for implementing that principle, the objective pursued by Article 78(2)(a) TFEU, namely a uniform status of asylum for nationals of third countries, valid throughout the European Union. Primary EU law thus provides for the progressive establishment of the Common European Asylum System, which must take place in stages, in order to achieve, in the longer term, a uniform status of asylum valid throughout the European Union. [44] As the German Government and the Commission have argued, the Common European Asylum System is being built up progressively and it is for the EU legislature alone to decide, where necessary, to give binding cross-border effect to decisions granting refugee status.

65. It is important, in that regard, to point out that, although mutual trust is the necessary basis for the mutual recognition of decisions adopted by the competent authorities of the Member States in the AFSJ, that trust is not sufficient, however, if it is not accompanied by an express provision in primary law or by an express intention on the part of the EU legislature to impose such recognition on the Member States. In that regard, I cannot find in Directives 2011/95

41 OJ 2013 L 180, p. 31.

42 See, to that effect, judgment of 10 December 2013, *Abdullahi* (C-394/12, EU:C:2013:813, paragraphs 54 and 55). As the Court held in that judgment, 'the rules applicable to asylum applications have been, to a large extent, harmonised at EU level, most recently by Directives 2011/95 and 2013/32' (paragraph 54). It follows, according to the Court, that 'the rules in accordance with which an asylum seeker's application will be examined will be broadly the same, irrespective of which Member State is responsible … for examining that application' (paragraph 55).

43 See judgments of 6 July 2023, *Staatssecretaris van Justitie en Veiligheid (Particularly serious crime)* (C-402/22, EU:C:2023:543, paragraph 36), and of 6 July 2023, *Commissaire général aux réfugiés et aux apatrides (Refugee who has committed a serious crime)* (C-8/22, EU:C:2023:542, paragraph 42).

44 See, inter alia, recital 6 of Regulation No 604/2013, recitals 7 and 9 to 11 of Directive 2011/95, and recitals 4 and 12 of Directive 2013/32.

and 2013/32 any express mention of a principle of mutual recognition between Member States of decisions granting international protection. I also note that, where that legislature wishes to lay down such a principle in an area covered by the AFSJ, it does so explicitly. [45]

66. I note, moreover, that the European Court of Human Rights has also held that mutual recognition of asylum decisions is not automatic. [46]

67. In my view, it follows from the foregoing that a determining authority of a Member State with which an application for international protection has been lodged and which chooses not to avail itself of the option offered to it by Article 33(2)(a) of Directive 2013/32 to regard such an application as inadmissible where international protection has been granted by another Member State [47] is not bound by a decision granting refugee status adopted by another Member State. That authority must then examine that application on the substance, in accordance with the provisions of Directives 2011/95 and 2013/32, and verify whether the applicant satisfies the material conditions for the grant of that protection, by carrying out an independent examination the result of which cannot be predetermined by the decision granting refugee status previously taken by another Member State. There is nothing in Directive 2011/95 or Directive 2013/32 which requires the Member States to grant a person refugee status solely on the ground that another Member State has already granted that person refugee status.

68. The same conclusion must be drawn, in my view, where it is impossible for a Member State, in accordance with the case-law arising from the judgment of 19 March 2019, *Ibrahim and Others*, [48] to avail itself of the option provided for in Article 33(2)(a) of Directive 2013/32 to declare an application for international protection as inadmissible. [49] I note, in that regard, that neither that directive nor Directive 2011/95 provide for any derogation from the obligation for a Member

[45] See, by way of example, Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (OJ 2001 L 149, p. 34), the purpose of which is, in accordance with Article 1 thereof, 'to make possible the recognition of an expulsion decision issued by a competent authority in one Member State … against a [third-country] national present within the territory of another Member State'. Moreover, in criminal matters, the rule that Member States are to execute any European arrest warrant on the basis of the principle of mutual recognition is not only inferred from the principle of mutual trust, but is expressly mentioned in Article 1(2) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1).

[46] Thus, by way of example, in its judgment of 10 December 2020, *Shiksaitov v. Slovakia* (CE:ECHR:2020:1210JUD005675116, §§ 68 to 75), the European Court of Human Rights' response to the applicant's argument that his detention is unlawful in so far as, in view of the refugee status granted to him in Sweden, he could not have been the subject of an extradition measure by the Slovak authorities, is that those authorities were not bound by the granting of that status, which they could review in particular with regard to the possible applicability of an exclusion clause.

[47] Read in conjunction with recital 43 of Directive 2013/32, which states that Member States must, in principle, examine all applications on the substance, Article 33(1) of that directive provides for an exception in the form of an exhaustive list of grounds of inadmissibility set out in Article 33(2) of that directive: see European Union Agency for Asylum (EUAA), *Judicial Analysis: Asylum procedures and the principle of non-refoulement*, 2018, p. 113. According to the Court, the possibility of declaring an application inadmissible under Article 33(2)(a) of Directive 2013/32 is explained in particular by the importance of the principle of mutual trust, of which that provision is an expression: see judgments of 22 February 2022, *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)* (C-483/20, EU:C:2022:103, paragraphs 29 and 37), and of 1 August 2022, *Bundesrepublik Deutschland (Child of refugees, born outside the host State)* (C-720/20, EU:C:2022:603, paragraph 50). This is a derogation from the obligation of the Member States to examine the substance of all applications for international protection: see, in that regard, judgment of 22 February 2022, *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)* (C-483/20, EU:C:2022:103, paragraphs 24 and 25), and Opinion of Advocate General Pikamäe in *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)* (C-483/20, EU:C:2021:780, point 63).

[48] C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraphs 83 to 94.

[49] See Opinion of Advocate General Pikamäe in *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)* (C-483/20, EU:C:2021:780, point 64). I consider, however, as I shall explain below in the context of an extradition procedure, that a decision granting refugee status adopted by a Member State on the basis of common criteria constitutes a particularly substantial piece of evidence of a risk of persecution and that it must therefore, for that reason and in a spirit of mutual trust, be taken into account by the authority newly seised.

State to examine an application for international protection on the ground that another Member State has granted a person refugee status, where that application cannot be regarded as inadmissible.

69. That solution is in line with the rule that refugee status or subsidiary protection is to be granted after an individual, full and up-to-date examination of the need for international protection. It follows from the second sentence of Article 4(1) of Directive 2011/95 and Article 10(2) and (3) of Directive 2013/32 that, in cooperation with the applicant, the Member State is to carry out an appropriate examination of the application, individually, objectively and impartially, on the basis of precise and up-to-date information. If it appears that the applicant meets the minimum standards set by EU law to qualify for refugee status or subsidiary protection, because he or she fulfils the conditions laid down in Chapters II and III or Chapters II and V of Directive 2011/95 respectively, Member States are required, in the light of Articles 13 and 18 of that directive and subject to the grounds for exclusion provided for by that directive, to grant the international protection status sought. They have no discretion in that respect.[50] Moreover, in accordance with recital 12 of Directive 2011/95, refugee status is intended for persons who are 'genuinely in need of international protection'.

70. It follows from the foregoing that the authorities of the Member State in which an application for international protection is lodged are not obliged to recognise the applicant as a refugee without examining the substance of that application in order to ascertain whether the material conditions for the grant of international protection set out in Directive 2011/95 are fulfilled.

71. That interpretation is supported by the objective of limiting secondary movements,[51] which would be likely to be encouraged if beneficiaries of international protection in one Member State could rely on the fact that the decision granting them that protection is also binding on the authorities of other Member States.

72. I would add that the possibility, provided for in Article 3 of Directive 2011/95, for Member States to examine applications for international protection and to grant refugee status under more favourable conditions than those provided for in that directive may appear to be incompatible with the existence of mutual recognition of decisions granting that status.[52] As the German Government stated at the hearing, if it were accepted that a positive decision on asylum must also be recognised by the other Member States, the Member State which adopted that decision could impose its more favourable provisions on those Member States.

73. All of those factors therefore lead me to consider that EU law, at the present stage of its development, does not provide for mutual recognition between Member States of decisions granting refugee status. It follows that such a decision taken by a Member State cannot be binding on the competent determining authorities of another Member State.

50 See, to that effect, judgment of 29 July 2019, *Torubarov* (C-556/17, EU:C:2019:626, paragraph 50).

51 See recital 13 of Directive 2011/95 and recital 13 of Directive 2013/32. See, inter alia, with regard to that objective, judgment of 10 December 2020, *Minister for Justice and Equality (Application for international protection in Ireland)* (C-616/19, EU:C:2020:1010, paragraphs 51 and 52).

52 In that regard, in accordance with Article 3 of Directive 2011/95, 'Member States may introduce or retain more favourable standards for determining who qualifies as a refugee or as a person eligible for subsidiary protection, and for determining the content of international protection, in so far as those standards are compatible with this Directive'. Moreover, under Article 5 of Directive 2013/32, 'Member States may introduce or retain more favourable standards on procedures for granting and withdrawing international protection, in so far as those standards are compatible with this Directive'.

74. I consider that, if an authority of a Member State which is competent to examine an application for international protection in respect of a person who has already been granted refugee status in another Member State is not bound by the assessment made by the latter because the decision granting that status is not binding, the same must be true, under EU law, in the case of an authority which is competent to examine a request for extradition. As EU law currently stands, there is therefore no automatic mechanism which would prohibit a Member State from extraditing a third-country national to his or her country of origin on the sole ground that that national has been granted refugee status in another Member State.

75. As regards, more specifically, the question whether a decision granting refugee status adopted by a Member State has binding effect in the context of an extradition procedure conducted in another Member State, the provisions of secondary EU law mentioned by the national court in its question for a preliminary ruling do not, in my view, allow a different position to be adopted. None of those provisions explicitly recognises or precludes such an effect.

76. That court thus refers to Article 9 of Directive 2013/32, paragraph 1 of which grants an applicant for international protection a right to remain in the Member State during the procedure for examining his or her application. Article 9(2) of that directive authorises the Member States to make an exception to that right in the cases referred to therein, including, in particular, that of the extradition of the applicant to a third State. Such extradition is then subject, in accordance with Article 9(3) of that directive, to the condition that the authorities of the Member State concerned are satisfied that the extradition decision will not result in direct or indirect refoulement in violation of the international and EU obligations of that Member State.

77. I note that those provisions concern only the case of extradition during the procedure for examining an application for international protection, without governing the case of extradition after such protection has been granted by a Member State. In my view, therefore, no conclusion can be drawn either for or against the binding effect of a decision granting refugee status in the context of an extradition procedure. Article 9(2) and (3) of Directive 2013/32 provides for an exception to the right to remain in a Member State while an application for international protection is being examined, provided that the principle of non-refoulement is respected. This cannot be interpreted as making extradition impossible once international protection has been granted. In other words, as the German Government rightly points out, it cannot be inferred from the express possibility of proceeding with extradition during the ongoing asylum procedure that it would be excluded after the adoption of a decision granting international protection. Moreover, the fact that the EU legislature did not address that issue when it recast Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status,[53] which was done by Directive 2013/32, suggests that it did not intend to regulate, as far as extradition is concerned, the period after the conclusion of the asylum procedure.

78. A combined reading of Article 9(2) and (3) of that directive leads to the conclusion that extradition to the country of origin of an applicant for international protection cannot take place without a prior substantive examination.[54] The only useful element for the present proceedings which can be drawn from those provisions, which in the present case merely clarify an obligation which may already be inferred from Article 18 and Article 19(2) of the Charter, is, therefore, that extradition is subject above all to compliance with the principle of non-refoulement.

[53] OJ 2005 L 326, p. 13.

[54] See EUAA, *Judicial Analysis: Asylum procedures and the principle of non-refoulement*, cited above, p. 82.

79. That principle is also set out in Article 21(1) of Directive 2011/95, which is also mentioned by the referring court in its question. Moreover, it does not expressly follow from that provision that a decision granting refugee status adopted by one Member State would have binding effect in the context of an extradition procedure conducted in another Member State.

80. Furthermore, it should be noted that Directives 2011/95 and 2013/32 do not contain any mechanism for readmission to the Member State which granted international protection, such as that provided for in Article 12(3a) and (3b) of Directive 2003/109, where a third-country national who is a long-term resident in a Member State other than that which granted him or her that protection is the subject of an expulsion decision. Those provisions, the purpose of which is, according to recital 10 of that directive, to protect a beneficiary of international protection who has acquired long-term resident status in a Member State against refoulement where that person is the subject of an expulsion decision on a ground laid down in that directive, are not intended to govern the particular situation of an extradition request. They cannot therefore be invoked to argue that the grant, by a Member State, of refugee status to a third-country national should, in principle, preclude another Member State from responding favourably to a request for extradition of that national to that third country as long as the requested person has that status.

81. The non-binding nature of a decision granting refugee status taken by one Member State in the context of an extradition procedure conducted in another Member State is corroborated by the fact that that procedure and the procedure for revocation of refugee status are two separate procedures, with the result that extradition cannot be made subject to the prior revocation of the requested person's refugee status.

B. The extradition procedure and the procedure for revocation of refugee status are two separate procedures: extradition is therefore not subject to the prior revocation of refugee status

82. The Italian Government submits, in essence, that the extradition by one Member State of a person who has been granted refugee status in another Member State constitutes a de facto revocation of that status and a circumvention of the rules laid down in that regard by Directive 2011/95. It considers that such extradition is therefore subject to the prior revocation of that status.

83. Articles 11, 12 and 14 of Directive 2011/95 lay down rules on cessation, exclusion and revocation of, ending of or refusal to renew refugee status by the Member State which granted it. According to the argument put forward by the Italian Government, it could be considered that the extradition of a refugee entails, de facto, cessation of the protection inherent in that status. If the competent authority of one Member State could authorise the extradition of a refugee recognised as such in another Member State on the ground that that person was not or was no longer at risk of persecution in the third State of origin, it would de facto take the place of the competent authorities of that other Member State.

84. It follows that the authority deciding on the request for extradition could not respond favourably to that request before having obtained revocation of that protection from the competent authority of the Member State which granted the international protection.

85. Before the Court, the German Government and the Commission, for their part and rightly in my view, emphasised the distinction between being a refugee and refugee status. They emphasised in particular that the loss of refugee status does not necessarily mean that the person is no longer a refugee.

86. It should be noted in that regard that, as can be seen from recital 21 of Directive 2011/95, the recognition of refugee status in accordance with that directive is declaratory and not constitutive of being a refugee. [55] Thus, within the system introduced by Directive 2011/95, a third-country national or a stateless person who satisfies the material conditions set out in Chapter III of that directive is, on that basis alone, a refugee for the purposes of Article 2(d) thereof and Article 1(A) of the Geneva Convention. [56] Being a 'refugee' for the purposes of those provisions, is therefore not dependent on the formal recognition of that fact through the granting of 'refugee status' as defined in Article 2(e) of Directive 2011/95, read in conjunction with Article 13 thereof. [57]

87. A consequence of that distinction between refugee status and being a refugee is that the fact that the person concerned is covered by one of the scenarios referred to in Article 14(4) and (5) of Directive 2011/95, in which Member States may revoke or refuse to grant refugee status, in no way means that he or she ceases to satisfy the material conditions, relating to a well-founded fear of persecution in his or her country of origin, on which his or her being a refugee depends. [58] Accordingly, the revocation of refugee status or the refusal to grant that status does not have the effect that the third-country national or the stateless person concerned who satisfies the material conditions of Article 2(d) of that directive, read in conjunction with the provisions of Chapter III thereof, is not a refugee for the purposes of Article 1A of the Geneva Convention and is thus excluded from the international protection which, under Article 18 of the Charter, he or she must be guaranteed in compliance with that convention. [59]

88. A clear distinction must also be drawn between the procedure which may lead a Member State to revoke refugee status and that of assessing compliance with the principle of non-refoulement in the context of an extradition procedure. Thus, in accordance with EU law, the competent authority may be entitled to revoke the refugee status granted to a third-country national, without, however, necessarily being authorised to remove him or her to his or her country of origin. [60] It follows, according to the Court, that the revocation of refugee status, pursuant to Article 14(4) of Directive 2011/95, cannot be regarded as implying the adoption of a position on the separate question of whether that person can be deported to his or her country of origin. [61] Accordingly, the consequences, for the third-country national concerned, of the potential return to his or her country of origin are to be taken into account not when the decision to revoke refugee status is adopted but, as the case may be, where the competent authority considers adopting a return decision against that third-country national. [62]

[55] See judgment in *M and Others (Revocation of refugee status)* (paragraph 85).

[56] See judgment in *M and Others (Revocation of refugee status)* (paragraph 86).

[57] See judgment in *M and Others (Revocation of refugee status)* (paragraph 92).

[58] See judgment in *M and Others (Revocation of refugee status)* (paragraph 98).

[59] See judgment in *M and Others (Revocation of refugee status)* (paragraph 100).

[60] See, with regard to the revocation of refugee status in accordance with Article 14(4)(b) of Directive 2011/95, judgment in *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)* (paragraph 39).

[61] See, inter alia, with regard to the revocation of refugee status in accordance with Article 14(4)(b) of Directive 2011/95, judgment in *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)* (paragraph 41 and the case-law cited).

[62] See judgment in *Bundesamt für Fremdenwesen und Asyl (Refugee who has committed a serious crime)* (paragraph 42).

89. What the Court has thus held with regard to the revocation of refugee status provided for in Article 14(4)(b) of Directive 2011/95 and a return decision under Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals,[63] may, in my opinion, be extended to other cases of revocation of that status, such as the one set out in Article 14(3) of Directive 2011/95, point (a) of which refers specifically to the situation in which the refugee should have been or is excluded from being a refugee in accordance with Article 12 of that directive, and to the field of extradition.

90. The distinction that must thus be drawn between the procedure which may lead to the revocation of refugee status, on the one hand, and the procedure for examining the compatibility of an extradition with the principle of non-refoulement, on the other, means, in my view, that a favourable response to a request for extradition cannot be made subject to the prior revocation of the refugee status held by the requested person. A requirement of speed in the processing of an extradition request may be added, which may appear to be incompatible with the initiation of a procedure for the prior revocation of refugee status.[64]

91. It follows that it is not refugee status as such which protects the beneficiary against extradition, but the principle of non-refoulement, which is enshrined in various forms in Article 18 and Article 19(2) of the Charter.

92. Thus, it is possible that the authority of one Member State which is competent for extradition may decide to adopt a decision to extradite the requested person even though that person's refugee status in another Member State has not been revoked by the authority which granted it. In so far as the principle of non-refoulement is respected, the retention of such status cannot, as EU law currently stands, have the effect of preventing an authority from extraditing the person in question, otherwise it would be in breach of its obligations under the European Convention on Extradition.

93. Contrary to what the Italian Government has maintained in the present proceedings, where it decides to respond favourably to a request for extradition concerning a person who has been granted refugee status in another Member State, in particular in so far as it considers that the extradition of that person does not run counter to the principle of non-refoulement, the authority of the requested Member State does not take the place of the authority which is competent to revoke that status in the other Member State. Only the latter authority has the power, where appropriate, to decide on the cessation or withdrawal of refugee status in accordance with Articles 11, 12 and 14 of Directive 2011/95. Therefore, it is indeed for the Member State which granted refugee status to draw the consequences for the retention or otherwise of that status from the evidence revealed in the request for extradition and that gathered in the course of the extradition procedure.

63 OJ 2008 L 348, p. 98.

64 See Forteau, M. and Laly-Chevalier, C., 'Les problèmes d'articulation des procédures d'asile, d'extradition et d'entraide judiciaire pénale', in Chetail, V. and Laly-Chevalier, C., *Asile et extradition – Théorie et pratique de l'exclusion du statut de réfugié*, cited above, pp. 145 to 203, in particular p. 162, who cite, by way of example, a judgment of the Canadian Supreme Court, *Németh v. Canada*, 2010 CSC 56, § 30. The interpretation supported by the Italian Government, according to which, on the basis of the principle of sincere cooperation, the authority deciding on the request for extradition should inform the competent authority of the Member State which granted refugee status of that request and allow it a reasonable period of time to determine whether or not there are grounds for revoking refugee status, cannot therefore be adopted.

94. There is therefore no risk of circumvention of the rules laid down in those articles because, as the German Government and the Commission have rightly pointed out, asylum and extradition procedures are independent and distinct from each other. They pursue different objectives and are conducted within the Member States by different authorities. Under the extradition procedure, the competent authority does not decide whether refugee status should be granted or withdrawn. It assesses, in a separate procedural framework, whether there are obstacles to extradition, such as a risk that a request for extradition based on an offence for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of, inter alia, political opinion or that his or her position may be prejudiced for that reason.

95. In that separate procedural framework, the competent authority for extradition must carry out an independent and up-to-date examination of compliance with the principle of non-refoulement. Even if a decision granting refugee status adopted by another Member State has no binding effect on the authority responsible for examining a request for extradition in a different Member State, the fact remains that the extradition procedure must be conducted in accordance with the right to asylum enshrined in Article 18 and Article 19(2) of the Charter. The legal safeguards available to the requested person in the case in the main proceedings under both Article 3(1) and (2) of the European Convention on Extradition and Paragraph 6(2) of the IRG are, in that regard, closely linked to the principle of non-refoulement.[65] A decision can therefore be made on extradition only if there is no longer a need for international protection. By guaranteeing protection for the requested person against refoulement, extradition law is not only a 'law of punishment',[66] but also, like refugee law, a 'law of protection'.

96. Thus, whether or not the refugee status previously granted is still in force when a decision is taken on a request for extradition does not alter the obligation incumbent on the authority which is responsible for taking a decision on that request, namely to verify whether or not the principle of non-refoulement precludes the extradition of the requested person. In other words, verification of compliance with that principle is autonomous and falls within the competence of the authority responsible for deciding on the extradition request, which may not eschew it, including in the event of prior revocation of refugee status.[67]

[65] See UNHCR Guidance Note (paragraph 5). As the UNHCR points out, 'in extradition cases concerning a refugee or an asylum-seeker, certain principles and provisions in extradition law offer legal safeguards to the individual concerned. The wanted person may benefit, for example, from the application of the principle of speciality; restrictions on re-extradition from the requesting State to a third State; the possibility of granting extradition upon condition of the wanted person's return to the requested State after the conclusion of criminal proceedings or the serving of a sentence; the rule of non-extradition for political offences; or other traditional refusal grounds, notably those related to capital punishment and notions of justice and fairness. So-called "discrimination clauses", whereby extradition may, or must, be refused if it was sought for political motives or with persecutory or discriminatory intent, are a more recent development in extradition law' (paragraph 5). See, also, Forteau, M. and Laly-Chevalier, C., cited above, footnote 46, who state that, according to the Swiss Federal Supreme Court and the Supreme Court of Canada, Article 3(2) of the European Convention on Extradition is the concrete expression of the principle of non-refoulement enshrined in refugee law in the context of extradition law. See, to the same effect, Chetail, V., cited above, who states that 'one cannot fail to note the parallelism between that provision and the definition of refugee contained in Article 1A(2) of the Geneva Convention. However, that article differs from [that convention] in two respects. The European Convention [on Extradition] did not reproduce the concept of "membership of a particular social group", which is considered too vague. With that proviso, Article 3(2) is, by contrast, broader than the definition of refugee, in so far as it does not exclude perpetrators of a serious non-political crime and it protects the requested individual, where his or her position may be prejudiced for one of the aforementioned reasons and not only where there is a risk of persecution' (p. 79).

[66] In the words of Chetail, V., cited above, p. 66.

[67] More generally, the examination of compliance with the principle of non-refoulement is becoming more autonomous. See, in that regard, Chetail, V., cited above, who points out that, where there is a real risk of torture or inhuman or degrading treatment in the State of destination, 'the principle of non-refoulement does not … merely preclude extradition where there is such a risk in the requested State. It also neutralises the consequences of exclusion from refugee status which is no longer synonymous with expulsion in the country of origin' (p. 90).

97. I would add that, in so far as the authority of a Member State which is competent to rule on an extradition request is required to carry out an independent and up-to-date examination of compliance with the principle of non-refoulement, that seems to me to be incompatible with the binding effect of a decision granting refugee status adopted by an authority of another Member State. Indeed, such a binding effect would remove the discretion that the competent authority for extradition must have. Moreover, an up-to-date assessment of compliance with the principle of non-refoulement would be impossible if that authority was bound by the assessment made previously, sometimes several years earlier, by a competent authority for asylum in another Member State. It should also be borne in mind that a request for extradition may bring to light new elements capable of justifying a different assessment of the risk of persecution faced by the requested person.

98. That said, there is undoubtedly a link between, on the one hand, the extradition procedure, in the context of which it must be ascertained whether Article 18 and Article 19(2) of the Charter do not preclude the extradition of the requested person to his or her country of origin and, on the other, the procedure which led to that person previously being granted refugee status. Consequently, although, for the reasons I have set out, the decision granting refugee status adopted by one Member State is not binding on the authority of another Member State which must decide on a request for extradition, the fact remains that such a decision must be duly taken into consideration by that authority in the context of its examination of compliance with the principle of non-refoulement.

C. The decision granting refugee status is a particularly substantial piece of evidence which must be taken into account by the competent authority for extradition

99. The issue of the consideration of a decision granting refugee status in the context of an extradition procedure has already been addressed by the Court in a previous case, which raised a question relating to the extradition, by a Member State to the Russian Federation, of a Russian-Icelandic national who had been granted asylum in Iceland before acquiring the nationality of that State. This is the case that gave rise to the judgment in *Ruska Federacija*.

100. In that judgment, the Court held, inter alia, that the requested Member State had to examine whether the extradition was compatible with Article 19(2) of the Charter, read in conjunction with Article 4 thereof, since the Icelandic national concerned invoked a real risk of inhuman or degrading treatment if extradited.[68] The Court recalled that, to that end, that Member State, in accordance with Article 4 of the Charter, which prohibits inhuman or degrading treatment or punishment, cannot restrict itself to taking into consideration solely the declarations of the requesting third State or the accession, by the latter State, to international treaties guaranteeing, in principle, respect for fundamental rights. The competent authority of the requested Member State must rely, for the purposes of that verification, on information that is objective, reliable, specific and properly updated. That information may be obtained from, inter alia, judgments of international courts, such as judgments of the European Court of Human Rights, judgments of courts of the requesting third State, and also decisions, reports and other documents produced by bodies of the Council of Europe or under the aegis of the United Nations.[69]

[68] See judgment in *Ruska Federacija* (paragraphs 64 and 65).

[69] See judgment in *Ruska Federacija* (paragraph 65 and the case-law cited).

101. The Court also held that the fact that the requested person was granted asylum by the Republic of Iceland on the ground that he was at risk of suffering inhuman and degrading treatment in his country of origin was a particularly substantial piece of evidence that the competent authority of the requested Member State had to take into account for the purposes of verifying that the extradition would not prejudice the rights guaranteed by the Charter, in particular in Article 19(2) thereof. [70]

102. The Court then specified the consequences that the competent authority of the requested Member State had to draw from a decision of the Icelandic authorities granting the requested person asylum.

103. Thus, according to the Court, in the absence of specific facts, including inter alia significant changes in the situation in the requesting third State or indeed substantial and reliable information to demonstrate that the person whose extradition is requested obtained asylum by concealing the fact that he or she was subject to criminal proceedings in his or her country of origin, the existence of such a decision must lead the competent authority of the requested Member State to refuse extradition, pursuant to Article 19(2) of the Charter. [71]

104. I note that the present case arises in a different factual and legal context and therefore it is necessary to examine whether the same solution, consisting in attributing, in the context of an extradition procedure, high evidential value in respect of a risk of infringement of the principle of non-refoulement to the decision granting refugee status adopted by the competent authority of another Member State, should be retained.

105. In the case giving rise to the judgment in *Ruska Federacija*, asylum had been granted by the Republic of Iceland. Although the Republic of Iceland participates in the 'Dublin' system as regards the criteria and mechanisms for determining the Member State responsible for examining an asylum application, [72] it does not apply Directives 2011/95 and 2013/32, which are the subject of the question referred in the present case. [73]

106. In the present case, it is a matter of determining the effect, in accordance with EU law, in the context of an extradition procedure conducted in one Member State, of a decision by which the competent authorities of another Member State have granted refugee status pursuant to the common rules and criteria of EU law on international protection. In my view, the fact that that question arises between two Member States, which are required to implement secondary EU legislation on international protection and therefore to comply with the common rules and criteria laid down by EU law, must lead to the conclusion that the solution adopted by the Court in its judgment in *Ruska Federacija* is all the more valid in such a context. In other words, if the Court has recognised the importance of taking into account in the extradition procedure conducted by another Member State the decision to grant asylum taken by the Republic of Iceland, this must apply a fortiori in respect of the decision granting refugee status adopted by a Member State.

[70] See judgment in *Ruska Federacija* (paragraph 66). According to the Court, such evidence is all the more important for the purposes of that verification where the grant of asylum was based precisely on the criminal proceedings to which the person concerned is subject in his country of origin and which led that latter country to issue a request for the extradition of that person (paragraph 67).

[71] See judgment in *Ruska Federacija* (paragraph 68).

[72] See Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway (OJ 2001 L 93, p. 40).

[73] See, in respect of the Kingdom of Norway, judgment of 20 May 2021, *L.R. (Application for asylum rejected by Norway)* (C-8/20, EU:C:2021:404, paragraphs 39 and 45).

107. I note, moreover, that, although, for the reasons I have set out above, an authority of a Member State which is competent to rule on an extradition request cannot be bound by a decision granting refugee status taken by another Member State, it would certainly run counter to the process of building a Common European Asylum System, in accordance with Article 78(2) TFEU, to consider that a Member State could disregard, in the context of an extradition procedure, a decision of another Member State granting refugee status to the requested person. On the contrary, it is the spirit of cooperation and mutual trust between the authorities of the Member States which should prevail,[74] in so far as the grant by a Member State of international protection to the requested person is an important indication that that person is politically persecuted[75] and the extradition procedure must be conducted in accordance with the right to asylum enshrined in Article 18 of the Charter.

108. It follows from the foregoing that, in order to verify whether extradition does not infringe the principle of non-refoulement, the competent authority of the requested Member State must take account of the decision granting refugee status adopted by another Member State, which is a particularly substantial piece of evidence for the purposes of that verification.[76] Thus, although that authority, in the case in the main proceedings, retains its discretion in the context of the independent and up-to-date examination of the conditions laid down in Paragraph 6(2) of the IRG and Article 3(1) and (2) of the European Convention on Extradition which it is required to carry out, it must establish the specific circumstances which would lead it to depart from the assessment made by the Italian authority which previously granted refugee status to the requested person.

109. The objective towards which the Common European Asylum System must strive, in accordance with Article 78(2) TFEU, therefore militates in favour of an obligation on the authority of the requested Member State to take due account of the decision granting refugee status taken by another Member State and to depart from that decision only in specific circumstances. Where such circumstances exist, the principle of non-refoulement is not infringed since the person in question can no longer claim that he or she is a refugee.

110. The interpretation which I suggest that the Court should adopt, in line with its judgment in *Ruska Federacija*, seems to me to be consistent with the way in which the extraterritorial effect of the Geneva Convention should be considered. It follows from the UNHCR Guidance Note that 'the wanted person's refugee status [which was granted in a country other than the requested State] is an important element and must be taken into consideration by the extradition authorities of the requested State when examining whether his or her extradition would be consistent with the principle of non-refoulement'.[77] The UNHCR appears to understand the extraterritorial effect of refugee status as meaning that that status granted by a State party to that convention 'should only be called into question by another State Party in exceptional cases when it appears that the person manifestly does not fulfil the requirements of [that convention]. This may

[74] See, by analogy, judgment of 2 April 2020, *Commission* v *Poland, Hungary and Czech Republic (Temporary mechanism for the relocation of applicants for international protection)* (C-715/17, C-718/17 and C-719/17, EU:C:2020:257, paragraphs 164 and 182).

[75] See Schierholt, C. and Zimmermann, F., '§ 6 Politische Straftaten, politische Verfolgung', in Schomburg, W. and Lagodny, O., *Internationale Rechtshilfe in Strafsachen*, 6th edition, C. H. Beck, Munich, 2020, p. 130.

[76] See Forteau, M. and Laly-Chevalier, C., cited above, who observe that 'information that comes to light in the context of the extradition procedure may have a bearing on the determination of the asylum application, and in particular on the application of the exclusion clauses, while, conversely, the outcome of the asylum procedure is an essential element to be considered by the requested State when seeking to establish whether or not the requested person may be lawfully extradited' (p. 162).

[77] See UNHCR Guidance Note (paragraph 55).

be the case, for example, if facts become known indicating that the statements initially made were fraudulent or showing that the person concerned comes within the terms of an exclusion provision of the [same convention]'.[78]

111. In view of the importance which the requested Member State must, in the context of its independent and up-to-date examination of compliance with the principle of non-refoulement, attach to the decision granting refugee status adopted by another Member State, an exchange of information must take place between the competent authorities of those two Member States.[79] That exchange of information, which is required by virtue of the principle of sincere cooperation between the Member States, is also likely to ensure the consistency of decisions within the AFSJ.

D. The examination by the competent authority of the requested Member State of compliance with the principle of non-refoulement must be carried out in accordance with the principle of sincere cooperation and the requirement of the consistency of decisions within the AFSJ

112. The probative effect which is to be attributed to a decision granting refugee status adopted by a Member State other than the one which must examine a request for extradition means that, even if such a decision is not legally binding, the authority responsible for assessing whether such a request should be granted is required to carry out all necessary investigations in order to determine whether the requested person faces a risk of persecution in the requesting State, with the result that he or she may still claim to be a refugee, and whether other fundamental rights of that person are threatened.[80] It follows that the competent authority for extradition must contact the authority which granted the requested person refugee status in order to obtain from that authority the necessary information in its possession. Moreover, in so far as the stage relating to the asylum procedure is managed by specialised staff with detailed knowledge of the subject, it is important that the competent authority for extradition seeks the opinion of the authority which adopted the decision granting refugee status.

113. I would add that the examination relating to compliance with the principle of speciality does not relieve the competent authority for extradition from verifying, by taking cognisance of the asylum file and entering into a dialogue with the authority which granted refugee status, whether the requested person can still claim that he or she is a refugee. The competent authority for extradition in the case in the main proceedings must therefore, first, examine in depth whether

[78] See UNHCR Guidance Note (paragraph 55). See, in that regard, Forteau, M. and Laly-Chevalier, C., cited above. Those authors infer from those factors that 'the content of the exceptions which the UNHCR accepts in respect of [the extraterritorial effect of the Geneva Convention] reveals … that the authority which has been seised in reality always has the power to re-examine the case file and to review the merits of the assessment of the foreign authority'. In their view, 'there does not therefore appear to be, strictly speaking, any "extraterritorial effect" in the sense that such effect would have in the context of a mechanism of mutual recognition – a mechanism which, moreover, the [Geneva Convention] does not organise. By "extraterritorial effect", the UNHCR appears ultimately to be referring to the probative effect and not the enforceable effect of the decision taken by the foreign authority' (pp. 186 and 187).

[79] It seems to me appropriate, in that regard, to draw a parallel with the situation I referred to earlier, in which, pursuant to Article 33(2)(a) of Directive 2013/32, which constitutes an expression of the principle of mutual trust, the Member States have the option of declaring a new application for international protection inadmissible where another Member State has already granted such protection. That principle and the principle of sincere cooperation also mean, in my view, that the determining authority of a Member State, which decides – or is obliged in the situation highlighted in the judgment of 19 March 2019, *Ibrahim and Others* (C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219) – to carry out its own examination of such an application, cannot disregard the decision granting refugee status taken by another Member State. That authority is therefore required to take that decision into account after an exchange of information with the authority that adopted it, while being able to depart from it if it identifies specific circumstances which are such as to justify the adoption of a decision going in a different direction. In that regard, while it is true that the existence of criteria harmonised by the EU legislature implies that the assessments made by the authorities successively seised should, in principle, converge, it cannot be ruled out, however, that the newly seised authority may reach a different conclusion from that which another authority had reached previously. That may be the case where there is a change in circumstances or where a new factor comes to light which was unknown to the Member State which granted refugee status. The new application could therefore be rejected.

[80] See Schierholt, C. and Zimmermann, F., cited above, p. 129.

there is a threat of persecution, in accordance with Paragraph 6(2) of the IRG, and, secondly, verify whether the principle of speciality or any assurances are capable of effectively remedying such a threat.[81] To that end, the factual evidence gathered in the context of the asylum procedure must be taken into account by that authority in its examination of the request for extradition. The content of an asylum file may, in that regard, provide an indication of the degree of credibility of the assurances given by the requesting State, for example by revealing elements suggesting that it cannot be expected that the assurances given will be respected in individual cases.[82]

114. In the context of a rigorous examination of the assurances given by the requesting State, the requested State must ensure, as I stated above, that, under the guise of prosecuting a non-political crime, the requesting State is not in fact aiming to prosecute a political offence or to persecute the requested person for a political reason. In that regard, the fact that the request for extradition comes from the requested person's State of origin, against which protection was deemed necessary when that person was granted refugee status, calls for particular vigilance. This presupposes that the requesting State provides rigorous and robust assurances that the risk will not increase, as required by Article 3(2) of the European Convention on Extradition.

115. The need to ensure the consistency of decisions adopted within the AFSJ also requires that an exchange of information take place between the competent authority for extradition and the authority which granted the requested person refugee status, in accordance with the principle of sincere cooperation.[83]

116. Such an exchange of information may be useful in particular where the information revealed by a request for extradition may lead the authority which granted refugee status to withdraw that status from the requested person, for example where that information reveals the existence of a case of exclusion from that status.[84] The communication to that authority by the authority responsible for examining the extradition request of all the necessary information is all the more necessary since Article 45(3) of Directive 2013/32 provides that the decision of the competent authority to withdraw international protection is to state the reasons in fact and in law on which that decision is based. That authority must therefore have available to it all the relevant information in order to be able, in the light of that information, to carry out its own assessment of all the circumstances of the case concerned, with a view to determining the tenor of its decision and providing a full statement of reasons for that decision.[85]

81 See Schierholt, C. and Zimmermann, F., cited above, p. 129.

82 See Marx, R., *AsylG – Kommentar zum Asylgesetz*, 10th edition, Luchterhand, Cologne, 2019, p. 275, § 10. I would recall, in that regard, the requirements relating to assurance which the Court set out in its judgment in *Ruska Federacija* (paragraph 65).

83 See Forteau, M. and Laly-Chevalier, C., cited above, who state that 'asylum and extradition procedures must be coordinated in such a way as to ensure that the imperatives of each are taken into account in the implementation of the other', while observing that 'it is in no way a question of one procedure taking precedence over the other' (p. 153). The relationship between the two procedures must therefore not be perceived from the perspective of a 'conflict of law', but by seeking a 'consistent application or interpretation' so that 'the two branches of law are fully able to coexist' (p. 155). In other words, it is not a question of giving precedence to extradition law over refugee law or vice versa, but of 'ensuring the parallel application of the two' (p. 156). Thus, 'the two sets of rules are governed by a complex dynamic of conciliation or coordination and not a simplistic principle of hierarchy' (p. 158). In addition, those authors consider that 'cooperation between asylum and extradition authorities may prove to be very useful … by encouraging both quicker and better-informed decision-making through more fluid information sharing' (p. 162).

84 I would point out, in that regard, that, in accordance with Article 14(3)(a) of Directive 2011/95, 'Member States shall revoke, end or refuse to renew the refugee status of a third-country national or a stateless person if, after he or she has been granted refugee status, it is established by the Member State concerned that … he or she should have been or is excluded from being a refugee in accordance with Article 12 [of that directive]'. Paragraph 2(b) of the latter provision states that 'a third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that … he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee'.

85 See, inter alia, judgment of 6 July 2023, *Commissaire général aux réfugiés et aux apatrides (Refugee who has committed a serious crime)* (C-8/22, EU:C:2023:542, paragraph 62 and the case-law cited).

V. Conclusion

117. Having regard to all the foregoing considerations, I propose that the Court should answer the question referred for a preliminary ruling by the Oberlandesgericht Hamm (Higher Regional Court, Hamm, Germany) as follows:

Article 78(2) TFEU and Article 21(1) 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 and Article 9(2) and (3) of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection

must be interpreted as meaning that where a third-country national who has been granted refugee status in one Member State is the subject, in another Member State in which he or she resides, of a request for extradition from his or her third country of origin, the requested Member State is not bound, in the context of the examination of that request, by the decision granting refugee status adopted by the first Member State, with the result that it is not required to refuse the extradition of that person for as long as that decision is in force.

However, the principle of non-refoulement, which is guaranteed as a fundamental right in Article 18 of the Charter of Fundamental Rights of the European Union, read in conjunction with Article 33 of the Convention relating to the Status of Refugees, as supplemented by the Protocol relating to the Status of Refugees, and Article 19(2) of the Charter of Fundamental Rights, requires the requested Member State to refuse to extradite the requested person where, after an independent and up-to-date examination of compliance with that principle, that Member State considers that there are substantial grounds for believing that that person will face a genuine risk, in the country of destination, of being subjected to treatment prohibited by those provisions of the Charter of Fundamental Rights.

In the context of that examination, the decision granting refugee status adopted by another Member State is a particularly substantial piece of evidence which the requested Member State must take into account for the purposes of verifying that the extradition will not prejudice the rights guaranteed by Article 18 and Article 19(2) of the Charter of Fundamental Rights. To that end and in order to ensure the consistency of decisions adopted within the area of freedom, security and justice, an exchange of information must take place between the competent authorities of those Member States, in accordance with the principle of sincere cooperation laid down in Article 4(3) TEU.