



Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

15 March 2017*

(Reference for a preliminary ruling — Criteria and mechanisms for determining the Member State responsible for examining an application for international protection — Regulation (EU) No 604/2013 (Dublin III) — Article 28(2) — Detention for the purpose of transfer — Article 2(n) — Significant risk of absconding — Objective criteria — Absence of a legal definition)

In Case C-528/15,

REQUEST for a preliminary ruling under Article 267 TFEU from the Nejvyšší správní soud (Supreme Administrative Court, Czech Republic), made by decision of 24 September 2015, received at the Court on 7 October 2015, in the proceedings

Policie ČR, Krajské ředitelství policie Ústeckého kraje, odbor cizinecké policie

v

Salah Al Chodor,

Ajlin Al Chodor,

Ajvar Al Chodor,

THE COURT (Second Chamber),

composed of M. Ilešič, President of the Chamber, A. Prechal (Rapporteur), A. Rosas, C. Toader and E. Jarašiūnas, Judges,

Advocate General: H. Saugmandsgaard Øe,

Registrar: L. Hewlett, Principal Administrator,

having regard to the written procedure and further to the hearing on 14 July 2016,

after considering the observations submitted on behalf of:

- the Policie ČR, Krajské ředitelství policie Ústeckého kraje, odbor cizinecké policie, by D. Franc,
- the Czech Government, by M. Smolek, J. Vláčil and S. Šindelková, acting as Agents,
- the Greek Government, by M. Michelogiannaki, acting as Agent,
- the United Kingdom Government, by S. Brandon, acting as Agent, and M. Gray, Barrister,

* * Language of the case: Czech.

— the European Commission, by M. Condou-Durande, M. Šimerdová and G. Wils, acting as Agents,
after hearing the Opinion of the Advocate General at the sitting on 10 November 2016,
gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 28 of 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 (OJ 2013 L 180, p. 31) ('the Dublin III Regulation'), read in conjunction with Article 2 of that regulation.
- 2 The request has been made in an appeal on a point of law brought by the Policie ČR, Krajské ředitelství Ústeckého kraje, odbor cizinecké policie (Police Force of the Czech Republic, Regional Police Directorate of the Ústí nad Labem Region, Foreigners Police Section; 'the Foreigners Police Section') concerning the annulment, by a lower court, of the decision taken by the Foreigners Police Section to detain Salah, Ajlin and Ajvar Al Chodor ('the Al Chodors') for 30 days for the purpose of transferring them to Hungary.

Legal context

The ECHR

- 3 Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'), is entitled 'Right to liberty and security', and provides:

'1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. ...'

EU law

The Charter

- 4 Article 6 of the Charter of Fundamental Rights of the European Union ('the Charter') provides that: 'everyone has the right to liberty and security of person'.

- 5 Article 52 of the Charter, entitled ‘Scope and interpretation of rights and principles’, states:

‘1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.

...

3. In so far as this Charter contains rights which correspond to rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.

...’

The Dublin III Regulation

- 6 Recital 9 of the Dublin III Regulation states:

‘In the light of the results of the evaluations undertaken of the implementation of the first-phase instruments, it is appropriate, at this stage, to confirm the principles underlying [Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ 2003 L 50, p. 1)], while making the necessary improvements, in the light of experience, to the effectiveness of the Dublin system and the protection granted to applicants under that system. Given that a well-functioning Dublin system is essential for the [Common European Asylum System (CEAS)], its principles and functioning should be reviewed as other components of the CEAS and Union solidarity tools are built up. A comprehensive “fitness check” should be foreseen by conducting an evidence-based review covering the legal, economic and social effects of the Dublin system, including its effects on fundamental rights.’

- 7 Recital 20 of the Dublin III Regulation is worded as follows:

‘The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection. Detention should be for as short a period as possible and subject to the principles of necessity and proportionality. In particular, the detention of applicants must be in accordance with Article 31 of the Geneva Convention. The procedures provided for under this Regulation in respect of a detained person should be applied as a matter of priority, within the shortest possible deadlines. As regards the general guarantees governing detention, as well as detention conditions, where appropriate, Member States should apply the provisions of Directive 2013/33/EU [of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, (OJ 2013 L 180, p. 96)] also to persons detained on the basis of this Regulation.’

- 8 Article 2 of the Dublin III Regulation, entitled ‘Definitions’, provides:

‘For the purposes of this Regulation:

...

(n) “risk of absconding” means the existence of reasons in an individual case, which are based on objective criteria defined by law, to believe that an applicant or a third-country national or a stateless person who is subject to a transfer procedure may abscond.’

9 Article 28 of that regulation, entitled ‘Detention’, provides:

‘1. Member States shall not hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation.

2. When there is a significant risk of absconding, Member States may detain the person concerned in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively.

3. Detention shall be for as short a period as possible and shall be for no longer than the time reasonably necessary to fulfil the required administrative procedures with due diligence until the transfer under this Regulation is carried out.

...’

Directive 2013/33

10 Under Article 8 of Directive 2013/33 (‘the Reception Directive’):

‘1. Member States shall not hold a person in detention for the sole reason that he or she is an applicant in accordance with 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 [(O) 2013 L 180, p. 60)].

2. When it proves necessary and on the basis of an individual assessment of each case, Member States may detain an applicant, if other less coercive alternative measures cannot be applied effectively.

3. An applicant may be detained only:

...

(f) in accordance with Article 28 of [the Dublin III Regulation].

The grounds for detention shall be laid down in national law.

...’

Czech law

11 Paragraph 129(1) of Law No 326/1999 on the residence of foreign nationals in the Czech Republic and amending other laws (‘the Law on the residence of foreign nationals’) states:

‘The police shall detain a foreign national who has entered or stayed in the Czech Republic illegally for the period of time necessarily required in order to secure transfer procedures in accordance with an international treaty concluded with another Member State of the European Union before 13 January 2009 or with directly applicable legislation of the European Union.’

- 12 At the time when the order for reference was made, a legislative process seeking to amend that article was pending, involving the addition of a fourth subparagraph to Paragraph 129, worded as follows:

‘The police shall decide to detain a foreign national for the purpose of his transfer to a State bound by directly applicable legislation of the European Union only if there is a significant risk of absconding. There is considered to be a significant risk of absconding in particular where the foreign national has stayed in the Czech Republic illegally, has already previously avoided transfer to a State bound by directly applicable EU legislation, or has attempted to abscond or expressed an intention not to comply with a final decision to transfer him to a State bound by directly applicable EU legislation, or if such an intention is apparent from his behaviour. There is also considered to be a significant risk of absconding where a foreign national who is to be transferred to a State bound by directly applicable EU legislation which is not immediately adjacent to the Czech Republic cannot lawfully travel to that State independently and cannot provide the address of a place of residence in the Czech Republic.’

The dispute in the main proceedings and the question referred for a preliminary ruling

- 13 The Al Chodors, who are Iraqi nationals, travelled to the Czech Republic, where they were subject to a police check on 7 May 2015. As they did not produce any documents establishing their identity, they were interviewed by the Foreigners Police Section.
- 14 During their interview, they declared that they were of Kurdish origin and that their village had been occupied by fighters of the Islamic State terrorist organisation. The Al Chodors travelled via Turkey to Greece, from where they continued their journey by lorry. In Hungary they were stopped by the police, who took their fingerprints. Salah Al Chodor stated that he signed a number of documents on that occasion. The following day, the Hungarian authorities brought them to a railway station and directed them towards a refugee camp. The Al Chodors left the refugee camp after two days with the aim of joining family members in Germany.
- 15 After stopping the Al Chodors in the Czech Republic, the Czech Foreigners Police Section consulted the Eurodac database and found that they had made an asylum application in Hungary.
- 16 The Foreigners Police Section took the view that there was a serious risk of absconding, given that the Al Chodors had neither a residence permit nor accommodation in the Czech Republic while awaiting their transfer to Hungary. Furthermore, notwithstanding the rules forbidding them from doing so, they had left the refugee camp in Hungary, with the intention of travelling to Germany, without waiting until a decision had been made in relation to their asylum application. The Foreigners Police Section accordingly placed the Al Chodors in detention for 30 days pending their transfer to Hungary pursuant to Paragraph 129(1) of the Law on the residence of foreign nationals, read in conjunction with Article 28(2) of the Dublin III Regulation.
- 17 The Al Chodors brought an action against the decision ordering their detention. The Krajský soud v Ústí nad Labem (Regional Court, Ústí nad Labem, Czech Republic) annulled that decision, finding that Czech legislation does not lay down objective criteria for the assessment of the risk of absconding within the meaning of Article 2(n) of the Dublin III Regulation. That court accordingly ruled that the detention was unlawful. It based its decision on, inter alia, two similar judgments delivered by courts in other Member States; one by the Bundesgerichtshof (Federal Court of Justice, Germany) (judgment of the Bundesgerichtshof, 26 June 2014, Case V ZB 31/14) and the other by the Verwaltungsgerichtshof (Administrative Court, Austria) (judgment of the Verwaltungsgerichtshof, 19 February 2015, Case RO 2014/21/0075-5).
- 18 Following the annulment of the decision of the Foreigners Police Section, the Al Chodors were released from custody. They left the Czech Republic for an unknown destination.

- 19 The Foreigners Police Section brought an appeal on a point of law before the Nejvyšší správní soud (Supreme Administrative Court, Czech Republic) against the decision of the Krajský soud v Ústí nad Labem (Regional Court, Ústí nad Labem). According to the Foreigners Police Section, the inapplicability of Article 28(2) of the Dublin III Regulation cannot be justified by the mere absence in Czech legislation of objective criteria defining the risk of absconding. That provision subjects the assessment of the risk of absconding to three conditions, namely an individual assessment taking account of the circumstances of the case, the proportionality of the detention, and the impossibility of employing a less coercive measure. The Foreigners Police Section has submitted that it satisfied those conditions.
- 20 The referring court is unsure whether Article 28(2) of the Dublin III Regulation, read in conjunction with Article 2(n) thereof, and/or Paragraph 129(1) of the Law on the residence of foreign nationals, constitute a sufficient legal basis where the national legislation does not contain objective criteria defining the existence of a significant risk of absconding.
- 21 In that regard, it points out that the language versions of Article 2(n) of the Dublin III Regulation diverge. While the French- and German-language versions of that provision require a definition, laid down in legislation, of the objective criteria for the purposes of assessing the risk of absconding, other language versions require a definition of those criteria ‘by law (in the general sense)’, with the result that the meaning of the term ‘defined by law’ does not follow clearly from the wording of that provision. Furthermore, the referring court notes that the European Court of Human Rights interprets the term ‘law’ broadly, in so far as, for that court, that term is not limited solely to legislation, but also includes other sources of law (ECtHR, 24 April 1990, *Kruslin v France*, CE:ECHR:1990:0424JUD001180185, § 29). In the context of the detention of persons who are staying illegally, it is clear from the judgment of the European Court of Human Rights of 9 July 2009, *Mooren v Germany* (CE:ECHR:2009:0709JUD001136403, §§ 76 and 90 to 97), that it is necessary to assess the quality of the legal basis, in particular in terms of clarity, accessibility and predictability.
- 22 Accordingly, the referring court is uncertain whether the recognition by its settled case-law of objective criteria on the basis of which the detention of persons pursuant to Paragraph 129 of the Law on the residence of foreign nationals may be carried out can meet the requirement of a definition ‘by law’ within the meaning of Article 2(n) of the Dublin III Regulation, in so far as that case-law confirms a consistent administrative practice of the Foreigners Police Section which is characterised by the absence of arbitrary elements, and by predictability and an individual assessment in each case.
- 23 In those circumstances, the Nejvyšší správní soud (Supreme Administrative Court) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

‘Does the sole fact that a law has not defined objective criteria for assessment of a significant risk that a foreign national may abscond [within the meaning of Article 2(n) of the Dublin III Regulation] render detention under Article 28(2) [of that regulation] inapplicable?’

Consideration of the question referred

- 24 The referring court asks, in essence, whether Article 2(n) and Article 28(2) of the Dublin III Regulation, read in conjunction, must be interpreted as requiring Member States to establish, in a national law, objective criteria underlying the reasons for believing that an applicant for international protection (‘the applicant’) who is subject to a transfer procedure may abscond, and whether the absence of those criteria in a national law leads to the inapplicability of Article 28(2) of that regulation.

- 25 It should be noted at the outset that the Dublin III Regulation, pursuant to Article 28(2) thereof, permits the detention of applicants, in order to secure transfer procedures in accordance with that regulation, when there is a significant risk of absconding on the basis of an individual assessment, and only in so far as the detention is proportional and where other less coercive alternative measures cannot be applied effectively. Article 2(n) of that regulation defines, in turn, the term ‘risk of absconding’ as the existence of reasons in an individual case, which are based on objective criteria defined by law, to believe that the person concerned may abscond.
- 26 The Foreigners Police Section and the Czech Government submit, in the first place, that a regulation is directly applicable in the Member States and therefore does not require prior transposition into national law. Consequently, they argue, Article 2(n) of the Dublin III Regulation does not require the national legislature to implement, by way of a national law, those objective criteria defining a risk of absconding.
- 27 In that regard, it must be recalled that, according to well-established case-law of the Court, pursuant to Article 288 TFEU and by virtue of the very nature of regulations and of their function in the system of sources of EU law, the provisions of those regulations generally have immediate effect in the national legal systems without its being necessary for the national authorities to adopt measures of application. Nonetheless, some of those provisions may necessitate, for their implementation, the adoption of measures of application by the Member States (see, to that effect, judgment of 14 April 2011, *Vlaamse Dierenartsenvereniging and Janssens*, C-42/10, C-45/10 and C-57/10, EU:C:2011:253, paragraphs 47 and 48 and the case-law cited).
- 28 This is the case with regard to Article 2(n) of the Dublin III Regulation, which explicitly requires that objective criteria defining the existence of a risk of absconding be ‘defined by law’. Since those criteria have been established neither by that regulation nor in another EU legal act, the elaboration of those criteria, in the context of that regulation, is a matter for national law. That finding is, moreover, confirmed by a combined reading of, on the one hand, Article 8(3)(f) of the Reception Directive, under which an applicant may be detained in accordance with Article 28 of the Dublin III Regulation, and, on the other hand, the final sentence of Article 8(3) of the Reception Directive which specifies that the grounds for such detention are to be laid down in national law. Furthermore, recital 20 of the Dublin III Regulation provides, in turn, that, as regards the general guarantees governing detention, as well as detention conditions, where appropriate, Member States should apply the provisions of the Reception Directive also to persons detained on the basis of that regulation, that directive specifically containing, in its Article 8, a direct reference to national law. It follows that criteria such as those listed in Article 2(n) of the Dublin III Regulation require implementation in the national law of each Member State.
- 29 Next, it is necessary to determine whether the word ‘law’ referred to in Article 2(n) of that regulation must be understood as including settled case-law which confirms, as the case may be, a consistent administrative practice.
- 30 In accordance with the settled case-law of the Court, in interpreting a provision of EU law, it is necessary to consider not only its wording but also the context in which it occurs and the objectives pursued by the rules of which it forms part (judgment of 26 May 2016, *Envirotec Denmark*, C-550/14, EU:C:2016:354, paragraph 27 and the case-law cited).
- 31 As regards the wording of Article 2(n) of the Dublin III Regulation, a purely textual analysis of the notion of ‘defined by law’ cannot determine whether case-law or a consistent administrative practice are capable of coming within that concept. In the different language versions of that regulation, the term equivalent to the term ‘loi (legislation)’ has a different scope. Thus, the wording used, for example, in the English-, Polish- and Slovak-language versions is similar to the concept of ‘droit (law

in the general sense'), which can have a wider scope than 'loi (legislation)'. Certain other versions, for example, the Bulgarian-, Spanish-, Czech-, German- and French-language versions, have a more restrictive scope.

- 32 Where the various language versions differ, the scope of the provision in question cannot be determined on the basis of an interpretation which is exclusively textual, but must be interpreted by reference to the purpose and general scheme of the rules of which it forms part (judgment of 26 May 2016, *Envirotec Denmark*, C-550/14, EU:C:2016:354, paragraph 28 and the case-law cited).
- 33 With regard to the general scheme of the rules of which Article 2(n) of the Dublin III Regulation forms part, the Court has previously held that it is apparent from recital 9 of that regulation that, while confirming the principles underlying it, that regulation is intended to make the necessary improvements, in the light of experience, not only to the effectiveness of the Dublin system but also to the protection afforded to applicants under that system, to be achieved by, inter alia, the judicial protection enjoyed by asylum seekers (judgment of 7 June 2016, *Ghezelbash*, C-63/15, EU:C:2016:409, paragraph 52).
- 34 This high level of protection afforded to applicants covered by the Dublin III Regulation is also provided for with regard to the detention of those applicants, as is clear from Articles 28 and 2(n) of that regulation, read in conjunction. Article 28 of that regulation, as mentioned in recital 20 thereof, places significant limitations on the power of the Member States to detain a person. Thus, it is clear from Article 28(1) of that regulation that the Member States may not hold a person in detention for the sole reason that he or she is an applicant for international protection. Furthermore, Article 28(2) of the Dublin III Regulation permits the detention of a person in order to secure transfer procedures pursuant to that regulation only where there is a significant risk of absconding, the assessment of which must be based on an individual assessment. In addition, the detention must be proportional and is justified only where other less coercive alternative measures cannot be applied effectively. Moreover, under Article 28(3), the detention must be for as short a period as possible. Finally, Article 2(n) of the Dublin III Regulation requires that the finding of a risk of absconding be based on objective criteria which must be defined by law and applied on a case-by-case basis.
- 35 Furthermore, it must be noted that the Dublin III Regulation provides greater guarantees in relation to detention than did Regulation No 343/2003, of which the Dublin III Regulation is a recast version. Regulation No 343/2003 did not contain any provision relating to detention. That development highlights the greater focus afforded by the EU legislature to the protection of applicants, as is also clear from the judgment of 7 June 2016, *Ghezelbash* (C-63/15, EU:C:2016:409).
- 36 As regards the objective pursued by Article 2(n) of the Dublin III Regulation, read in conjunction with Article 28(2) thereof, it must be recalled that, by authorising the detention of an applicant in order to secure transfer procedures pursuant to that regulation where there is a significant risk of absconding, those provisions provide for a limitation on the exercise of the fundamental right to liberty enshrined in Article 6 of the Charter (see, by analogy, judgment of 15 February 2016, *N.*, C-601/15 PPU, EU:C:2016:84, paragraph 49).
- 37 In that regard, it is clear from Article 52(1) of the Charter that any limitation on the exercise of that right must be provided for by law and must respect the essence of that right and be subject to the principle of proportionality. In so far as the Charter contains rights which correspond to rights guaranteed by the ECHR, Article 52(3) of the Charter provides that the meaning and scope of those rights must be the same as those laid down by that convention, while specifying that EU law may provide more extensive protection. For the purpose of interpreting Article 6 of the Charter, account must therefore be taken of Article 5 of the ECHR as the minimum threshold of protection.

- 38 According to the European Court of Human Rights, any deprivation of liberty must be lawful not only in the sense that it must have a legal basis in national law, but also that lawfulness concerns the quality of the law and implies that a national law authorising the deprivation of liberty must be sufficiently accessible, precise and foreseeable in its application in order to avoid all risk of arbitrariness (see, to that effect, judgment of the European Court of Human Rights of 21 October 2013, *Del Río Prada v Spain*, CE:ECHR:2013:1021JUD004275009, §125).
- 39 Furthermore, according to the case-law of the Court of Justice in that regard, it must be noted that the objective of the safeguards relating to liberty, such as those enshrined in both Article 6 of the Charter and Article 5 of the ECHR, consists in particular in the protection of the individual against arbitrariness. Thus, if the execution of a measure depriving a person of liberty is to be in keeping with the objective of protecting the individual from arbitrariness, this means, in particular, that there can be no element of bad faith or deception on the part of the authorities (see, to that effect, judgment of 15 February 2016, *N.*, C-601/15 PPU, EU:C:2016:84, paragraph 81).
- 40 It follows from the foregoing that the detention of applicants, constituting a serious interference with those applicants' right to liberty, is subject to compliance with strict safeguards, namely the presence of a legal basis, clarity, predictability, accessibility and protection against arbitrariness.
- 41 With regard to the first of those safeguards, it must be recalled that the limitation on the exercise of the right to liberty is based, in the present case, on Article 28(2) of the Dublin III Regulation, read in conjunction with Article 2(n) thereof, which is a legislative act of the European Union. The latter provision refers, in turn, to national law for the definition of the objective criteria indicating the presence of a risk of absconding. In that context, the question arises as to what type of provision addresses the other safeguards, namely those of clarity, predictability, accessibility and protection against arbitrariness.
- 42 In that regard, as was noted by the Advocate General in point 63 of his Opinion, it is important that the individual discretion enjoyed by the authorities concerned pursuant to Article 28(2) of the Dublin III Regulation, read in conjunction with Article 2(n) thereof, in relation to the existence of a risk of absconding, should be exercised within a framework of certain predetermined limits. Accordingly, it is essential that the criteria which define the existence of such a risk, which constitute the basis for detention, are defined clearly by an act which is binding and foreseeable in its application.
- 43 Taking account of the purpose of the provisions concerned, and in the light of the high level of protection which follows from their context, only a provision of general application could meet the requirements of clarity, predictability, accessibility and, in particular, protection against arbitrariness.
- 44 The adoption of rules of general application provides the necessary guarantees in so far as such wording sets out the limits of the flexibility of those authorities in the assessment of the circumstances of each specific case in a manner that is binding and known in advance. Furthermore, as the Advocate General noted in points 81 and 82 of his Opinion, criteria established by a binding provision are best placed for the external direction of the discretion of those authorities for the purposes of protecting applicants against arbitrary deprivations of liberty.
- 45 It follows that Article 2(n) and Article 28(2) of the Dublin III Regulation, read in conjunction, must be interpreted as requiring that the objective criteria underlying the reasons for believing that an applicant may abscond must be established in a binding provision of general application. In any event, settled case-law confirming a consistent administrative practice on the part of the Foreigners Police Section, such as in the main proceedings in the present case, cannot suffice.
- 46 In the absence of those criteria in such a provision, as in the main proceedings in the present case, the detention must be declared unlawful, which leads to the inapplicability of Article 28(2) of the Dublin III Regulation.

- 47 Consequently, the answer to the question referred is that Article 2(n) and Article 28(2) of the Dublin III Regulation, read in conjunction, must be interpreted as requiring Member States to establish, in a binding provision of general application, objective criteria underlying the reasons for believing that an applicant who is subject to a transfer procedure may abscond. The absence of such a provision leads to the inapplicability of Article 28(2) of that regulation.

Costs

- 48 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Second Chamber) hereby rules:

Article 2(n) and Article 28(2) of 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, read in conjunction, must be interpreted as requiring Member States to establish, in a binding provision of general application, objective criteria underlying the reasons for believing that an applicant for international protection who is subject to a transfer procedure may abscond. The absence of such a provision leads to the inapplicability of Article 28(2) of that regulation.

[Signatures]