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Court of Justice of the European Union

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Judgment in Joined Cases C-175/08, C-176/08, C-178/08 and C-179/08
Aydin Salahadin Abdulla and Others

A person may lose refugee status when the circumstances in the third country on which his fear of persecution was founded have ceased to exist

That change in circumstances must be of a significant and non-temporary nature

The Council Directive of 29 April 2004 on the determination of who qualifies for refugee status¹ sets out the conditions which third-country nationals must satisfy in order to qualify for refugee status in a Member State of the European Union. It also provides that a person ceases to be classified as a refugee when the circumstances which led him to be recognised as such have ceased to exist.

Aydin Salahadin Abdulla, Kamil Hasan, Ahmed Adem, his wife Hamrin Mosa Rashi and Dier Jamal, Iraqi nationals, were granted refugee status in Germany in 2001 and 2002. In support of their applications, they relied before the German Federal Office for Migration and Refugees on a variety of reasons which made them fear being persecuted in Iraq by the regime of Saddam Hussein's Baath Party. In 2005, as a result of the changed circumstances in Iraq, their recognition as refugees was revoked.

Citing a fundamental change in the situation in Iraq, the higher administrative courts in Germany ruled that the parties concerned were now safe from the persecution suffered under the previous regime and that they were not under any significantly likely new threat of further persecution on any other grounds. It is against that background that the Bundesverwaltungsgericht (Federal Administrative Court), before which the disputes had been brought, referred to the Court of Justice questions on the interpretation of the provisions in the 2004 Directive which relate to the loss of refugee status.

The Court states first that, in order to be classified as a refugee, the national must, by reason of circumstances existing in his country of origin, have a well-founded fear of being himself persecuted on the basis of race, religion, nationality, political opinion or membership of a particular social group. Those circumstances form the reason why it is impossible for the person concerned, or why he justifiably refuses, to avail himself of the protection of his country of origin in terms of that country's ability to prevent or punish acts of persecution.

As regards the revocation of refugee status, the Court holds that **a person loses that status when, following a change of circumstances of a significant and non-temporary nature in the third country concerned, the circumstances which had justified the person's fear of persecution no longer exist and he has no other reason to fear being persecuted.**

The Court points out that, in order to reach the conclusion that the refugee's fear of being persecuted is no longer well founded, the competent authorities must verify that the actor or actors of protection of the third country have taken reasonable steps to prevent the persecution. They must therefore operate, inter alia, an effective legal system for the detection, prosecution and

¹ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ 2004 L 304, p. 12).

punishment of acts constituting persecution and ensure that the national concerned will have access to such protection if he ceases to have refugee status.

The Court points out that the change in circumstances will be of a 'significant and non-temporary' nature when the factors which formed the basis of the refugee's fear of persecution may be regarded as having been permanently eradicated. That implies that there are no well-founded fears of being exposed to acts of persecution amounting to 'severe violations of basic human rights'. The Court states that the actor or actors of protection with respect to which the reality of a change of circumstances in the country of origin is to be assessed are either the State itself or parties or organisations, including international organisations, which control the State or a part of the territory of the State. As regards the latter point, the Court acknowledges that the Directive does not preclude the protection guaranteed by international organisations from being ensured through the presence of a multinational force in the territory of the third country.

The Court then goes on to analyse the situation in which a finding has been made that the circumstances on the basis of which refugee status was granted have ceased to exist, and the conditions in which the competent authorities must verify, if necessary, whether there are other circumstances which may give rise to a well-founded fear of persecution on the part of the person concerned.

In the context of this analysis, the Courts states, inter alia, that, **both at the stage of the granting of refugee status and at the stage of examination of the question of whether that status should be maintained**, the assessment relates to the same question of whether or not the circumstances established constitute such a threat of persecution that the person concerned may reasonably fear, in the light of his individual situation, that he will in fact be subjected to acts of persecution. Consequently, the Court holds that **the standard of probability used to assess that risk is the same as that applied when refugee status was granted**.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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