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**A Palestinian who has refugee status from UNRWA cannot obtain refugee status in the EU while receiving effective protection or assistance from that UN agency**

*As regards an applicant for asylum who has fled the Gaza Strip, the Court also sets out specific criteria for handling applications for asylum lodged by Palestinians*

Ms Serin Alheto, a Palestinian habitually resident in the Gaza Strip, left that territory for Jordan where she stayed for a short time before travelling to Bulgaria and lodging an application for asylum and subsidiary protection in that country. After that application was refused by the Bulgarian administrative authorities, Ms Alheto brought an action before the Sofia Administrative Court (Bulgaria). That court asks the Court of Justice, in particular, for clarification as to whether and according to what criteria Ms Alheto is entitled to refugee status under EU law.

The handling of applications for international protection (asylum and subsidiary protection) lodged in the EU Member States is governed by common standards, contained in an EU directive.<sup>1</sup> That directive provides in particular that any application for international protection lodged in a Member State must be handled by the administrative or quasi-judicial body designated for that purpose by that Member State and that the decision taken by that body may be challenged before a court or tribunal.

In today's judgment, the Court states that, when an appeal against a decision of the administrative or quasi-judicial body concerning an application for asylum or subsidiary protection is brought before a court or tribunal, that court or tribunal must carry out a fully up-to-date examination of the file, taking into account all the facts and points of law which appear relevant, including those not in existence when the body in question adopted its decision.

The Court bases that interpretation, first, on the rule contained in the directive that the court or tribunal before which an appeal against a decision of the body concerned is brought at first instance must carry out a 'full and *ex nunc*' examination of the file'<sup>2</sup> and, second, on the directive's purpose of ensuring that applications for asylum and subsidiary protection are handled as quickly as possible. Given that purpose, the court must examine the application in an exhaustive and up-to-date manner, without needing, before giving a ruling, to refer the file back to the administrative or quasi-judicial body.

The Court adds that each Member State bound by the directive must order its national law in such a way that, in the event of annulment by a court of the decision of the administrative or quasi-judicial body and of the need for that body to take a new decision, that new decision on the application for asylum or subsidiary protection must be adopted within a short period of time and must comply with the assessment contained in the judgment annulling the decision in question.

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<sup>1</sup> 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 (OJ 2013 L 180, p. 60).

<sup>2</sup> Article 46(3) of Directive 2013/32.

As regards an application for asylum and subsidiary protection lodged by a Palestinian, the Court also sets out, in today's judgment, the specific criteria which derive from EU law concerning applications for international protection lodged by Palestinians.<sup>3</sup>

In that regard, the Court recalls that, when a Palestinian, such as the applicant in the case in question, is registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) (the UN agency established to protect and assist, in the Gaza Strip, the West Bank, Jordan, Lebanon and Syria, Palestinians who are 'Palestine refugees'), that Palestinian may not obtain asylum in the EU for as long as he or she is a beneficiary of effective protection or assistance from that UN agency. That individual may obtain asylum in the EU only if he or she are in a position in which his or her personal safety is at serious risk, has unsuccessfully sought assistance from UNRWA and has been driven to leave the UNRWA area of operations owing to circumstances beyond his or her control.

When, as in the present case, a person of Palestinian origin registered with UNRWA leaves his or her residence in the Gaza Strip for Jordan and stays for a short time in that country before travelling to an EU Member State where he or she lodges an application for international protection, both the administrative or quasi-judicial body designated by that Member State to examine such an application and the court or tribunal hearing an appeal against the decision adopted by that body must, inter alia, examine whether that person enjoyed effective protection or assistance from UNRWA in Jordan. If that is the case, that person may not obtain asylum in the EU. Nor may that person obtain subsidiary protection in the EU if it has not been established that his or her personal safety is at serious risk in the territory of his or her place of residence (in the present case, the Gaza Strip) or, otherwise, if Jordan is prepared to readmit that individual to its territory and grant him or her the right to stay in dignified living conditions for as long as necessary in view of the risks in the Gaza Strip.

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**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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<sup>3</sup> In particular, Article 12 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 (OJ 2011 L 337, p. 9).